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The 'Disuse' of Women
ECONOMICS OF SEX BIAS
Betty MacMorran Gray

●

ANALYSIS OF A DREAM TANK
William Overend

●

Canadians Who Teach
ALIENS IN THEIR OWN LAND
Leslie Armour

Misleading the Presidents
THIRTY YEARS OF WIRE TAPPING
Athan G. Theoharis

Broils and Civil Commotions / Hugo A. Bedau

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LETTERS

'safe' radiation

Washington, D.C.

DEAR SIRS: We have just read Pete Winslow's "Fallout from the 'Peaceful Atom'" [*The Nation*, May 3]. We appreciate Mr. Winslow's effort to present a balanced discussion. However, there are several misstatements, or errors, which are basic to the issue.

The most significant, in terms of public appreciation of the radiation standards issue, is where he states: "Although linearity has never been disproved, medical practice and federal radiation guidelines are based on tacit agreement that there is a 'harmless' dose." The same thought has been repeatedly implied by some nuclear critics, particularly Drs. Gofman and Tamplin. However, all radiation standards, federal and international, are set on the assumption that there is no threshold below which no damage occurs, that all radiation is potentially hazardous, and that the relationship between dose and effect is linear.

All standards-setting groups also have stressed that radiation exposure should be kept as far below the maximum as practicable and that guidance has been carefully observed. If there is a "tacit agreement," it is that, as stated by the Federal Radiation Council: "There should not be any man-made radiation exposure without the expectation of benefit resulting from such exposure."

Consequently, we have to disagree directly with Mr. Winslow's comment: "One may quibble with the Gofman-Tamplin arithmetic, but it is not the main issue." That is exactly the issue.

The crux of the matter is not whether or not standards should be set using a linear assumption. They are now. It is an argument over the numbers used in estimating biological damage. Gofman and Tamplin have made estimates of the effects of exposing large populations to very low doses of radiation. Any biological effects that may occur at the low levels of exposure recommended in radiation protection standards occur so infrequently that they cannot be detected with existing techniques and must be estimated arithmetically. Even with everyone involved using the linear theory of dose-effect as a starting point, the estimates will come out differently, depending upon what secondary assumptions are used, what data are used—that is, whether all available data or only selected data are used—and upon how the arithmetic is done.

In general, we should like to commend *The Nation* and Mr. Winslow for what is clearly a conscientious effort to report objectively on a subject which is more often discussed with emotion than with fact.

John A. Harris, Director
Division of Public Information
United States Atomic Energy Commission

San Francisco, Calif.

DEAR SIRS: Present radiation guidelines were set at arbitrary levels, which the AEC leads its employees to believe are harmless. A booklet, *ABC's of Radiation*, from the AEC's Brookhaven National Laboratory verifies this fact: ". . . the total exposure received at work is not allowed to be more than 5 r times the number of years since the person was 18 years old. As long as exposures are below these limits, you need not fear that you will be harmed."

Anyone coming to grips with linear projections must conclude that a large number of people—in the thousands—would die each year if the population received the allowable dose, which is, incidentally, one-thirtieth of the occupational dose which Brookhaven assures its employees is harmless. Arithmetic, therefore, is not the issue. The issue is whether or not AEC assurances that the public will never receive more than a small fraction of this dose are credible. Gofman and Tamplin make a good case that they are not; their position deserves to be heard. . . .

Pete Winslow

EDITORIALS

Vietnam: The Next Round

It is becoming clear that an ideological and political groundwork is being laid for the next round in the American struggle to impose our will on the countries of Southeast Asia—under the hoary pretext that we want the people of that unhappy region to decide their own "destiny," as defined by the United States. One portent is Senator Javits' visit to South Vietnam, as reported by Alvin Shuster in *The New York Times* (May 26). Mr. Javits is a co-sponsor of the Hatfield-McGovern amendment, which seeks to force the withdrawal of all American troops by the end of this year. He returned from Vietnam with an estimate, based on interviews with American and South Vietnamese officials (including President Nguyen Van Thieu), that $2 billion would be required annually for economic and military aid to South Vietnam after the American pullout. As in most such forecasts, what is meant by troop withdrawals, what government would be the beneficiary of American aid, and for what purpose—all these and other factors were left obscure.

Stewart Alsop in his June 7th *Newsweek* column, "Struggle for the Democratic Soul," was, in contrast, perfectly candid. It is often said that no Vietnamese hawks remain; Alsop is an exception. He polled seven leading Democratic Presidential aspirants on the position of each as to providing (*a*) economic support; (*b*) military and logistic support; and (*c*) U.S. air support to the South Vietnamese Government and military forces "after the withdrawal of American troops." In the first half of his column Alsop used Sen. Henry Jackson's term, "radical-Left" six times. What Alsop fears is a Communist victory which would "betray the commitments of four Presidents." He grants that a Communist victory is possible in any event, but at least it should not occur "as a direct result of an act of national perfidy against a small ally. . . ."

From these exhibits and other published evidence, one can put together a likely political script for Mr. Nixon. He will continue to damn the North Vietnamese for their inhumanity toward the Americans they hold as prisoners of war, and he will reiterate his intention to protect with unlimited air power whatever residual American forces he chooses to retain in Indochina. American officials in Vietnam will go all out to insure Thieu's re-election. President Nixon will then hail Thieu as the legitimate representative of the Vietnamese people, perhaps even visiting Thieu after the election. He will then return from South Vietnam to campaign as the authentic American "peace" candidate, since a further large reduction in U.S. forces is timed for shortly after the Vietnamese election. A majority of public opinion might sanction continued appropriations to the South Vietnamese, if all or most U.S. troops were withdrawn. As to the opposition, it would be confronted with the option of voting appropriations to enable the South Vietnamese to continue the war (with American air, naval and logistical support) or of voting against the appropriations and being accused of stabbing the Vietnamese in the back. The Democrats should have this prospect in mind as they plot their strategy for 1972.

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The Art of Follow-Up

After much prodding and conferring among themselves, Washington newsmen have finally decided to engage in a little teamwork at news conferences with the President. Because of the brief period of such conferences and out of respect for the President, newsmen have hesitated to ask the follow-up questions which have long been standard procedure at ordinary press conferences. In his most recent meeting with the press, the President was asked a general question (by Herbert Kaplow): did he think that the police had handled the Mayday demonstrations properly? The answer was predictable: he did indeed; he has little use for those "vandals and hoodlums and lawbreakers."

But a little later he was asked a second question on the same subject: did he think that the threat to close down the government justified the suspension of constitutional rights? The charge, he thought, was exaggerated; ". . . the police showed a great deal more concern for their rights than they showed for the rights of the people of Washington." But now came a third question, specifically by way of follow-up: if what he had just said was true, then why were the courts releasing so many of those arrested?

That was not quite so easily brushed aside, but our lawyer President did the best he could, giving the press corps—and the viewing audience—a brief lecture on the distinction, under our system, between arrest and conviction. But the reporter (J. F. ter Horst of the North American Newspaper Alliance) firmly held his ground and insisted that they were not being released because of a failure to prove guilt but because the arrests themselves were illegal. That, of course, was the key issue and the President could only respond with more rhetoric about "lawbreakers." The exchange is significant because it demonstrates how effective the pursuit of a single subject can be when the press insists on clarification. This latest press conference was still the President's show, but there was enough illumination in the one exchange to make it a real encounter and not a staged performance.

Raising Cane

The Castro regime has been trying to mechanize sugar cane harvesting and recently purchased twenty harvesters from Australia, a sugar-producing-and-exporting country that has developed machinery for the purpose. On May 12 it was announced, from Canberra, that the American Ambassador and Australian officials had engaged in a low-keyed exchange about the propriety of the sale, in view of the U.S. embargo. But the talk did not remain low-keyed for long. Senator Fulbright announced that he thought it passing strange the Australians should act so.

At that point, the Australian press, which reflects the notable independence of the national character, hit the roof. What Australia sold, in normal commercial transactions, was its business, not Washington's, and certainly not the Senator's. To keep the incident from developing into a real trans-Pacific brouhaha, the Australian embassy got busy and reduced it to the original low-keyed status. It was a minor incident but it points up the folly of our

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efforts to maintain the Cuban embargo. After all, cane harvesters are not instruments of war. Why shouldn't Australians sell them—if we won't—and why shouldn't the Cubans buy them? Attempts to enforce the embargo on such items may inconvenience, they do not handicap, the Cubans. But on this occasion the Australians were irritated and, in the end, to no purpose. If American exports are lagging, as the Administration insists, then isn't it time, if only in terms of economic self-interest, that we re-examine our trade relations with Cuba?

'A Skunk Is a Skunk'

If the Nixon Administration wants to save $23 million —even though it would mean laying off 4,000 employees —a simple means to this end would be to abolish in toto, and pronto, the Farm Labor Service. On April 22, sixteen organizations and 198 farm workers filed a complaint charging the FLS with knowingly violating civil rights statutes, as well as health, safety and minimum wage laws, and being generally of no utility whatever to farm workers. The charges were supported by an excellent brief. The best evidence that the charges should be taken seriously is the fact that the Department of Labor promptly designated Assistant Secretary of Manpower Malcolm R. Lovell, Jr. to initiate a full investigation.

There is, of course, nothing new about the charges. For years it has been well known to all those interested in farm labor that the FLS was operated distinctly and exclusively for the benefit of large employers of farm labor. Such charges as the following pop forth from the 48-page brief: virtually none of the personnel is Spanish-speaking; referrals are made without regard to whether the employer meets minimum health and safety requirements; referrals are made even though the employer may have wage complaints pending against him. In a word, the service acknowledges no responsibility other than to refer workers to those employers who say they need them and in such numbers as the employer specifies. A Mexican-American worker from the Imperial Valley in California alleges that he was referred to the Green Giant corn cannery in Glencoe, Minn.—a round trip of more than 3,000 miles. Some 200 men and sixty women from the Imperial Valley made this safari. When they arrived in Glencoe, no work was available for a week. Or consider this charge: with full knowledge of Green Giant's record, the FLS shipped a busload of workers to the company's fields in the state of Washington. "The bus was old and in very poor condition. There were holes in the floor of the bus and fumes from the exhaust often bothered us. Once the fumes were so bad that the bus had to stop so the workers could get some fresh air. . . . When we arrived in Washington, we found that the camp was crowded with people. . . . There were at least 500 people in the camp at that time. Unfortunately there was not enough work for all of us. . . . We were allowed to work only two or three hours per day. Some of us were given no work at all."

And so on, page after page, in the same vein. None of this should be news to the Department of Labor. By order of top officials, the department's own report on the FLS, prepared by Abt Associates, Inc., was suppressed. Mexican migrants have a saying: *"Zorrillo es zorrillo, aunque se llama flor,"* or, roughly, "A skunk is a skunk, even if you call it a flower." It is a saying they apply to the Farm Labor Service and with good reason. Lopping off $23 million from the budget would be a good end in itself; as for the employees who would be laid off, most of them can get jobs with the large farm employers—for whom they have been working all these years while on the public payroll.

California's Sub-Subculture

This postscript to a crime is prompted by the mass murders reported at Yuba City, Calif. To date twenty-four bodies have been found in the soft earth of the peach orchards along the Feather River—"the greatest mass murders of this century." The victims had apparently been recruited, by the labor contractor who is accused of killing them, in the Marysville skid row section, four or five blocks along the lower end of D Street. Skid row, in the sense of an area into which seasonal, unskilled workers, mostly farm workers, drift when out of work—and from which they are recruited for casual labor, usually by farm labor contractors—is really a California invention, an adjunct of factory farming as it is practiced in that state.

Of California skid rows those in Marysville and Stockton are the oldest, largest and best known. The twenty-four victims whose bodies have been unearthed were transient workers, all white, mostly in their 50s and 60s. To date fourteen bodies have been identified. The sheriff had to proceed down the list to No. 13 before anyone appeared to claim the body of a victim. Those the sheriff *thinks* he has identified are a man, 60, "possibly of Atlanta," a man 65, with "a possible mailing address of General Delivery, Baton Rouge," four with no known addresses, one "believed to have been from Alameda, Calif.," and so on down the list.

Over the last seventy years it would have been possible for a labor contractor to drive into Marysville's skid row section around 6 A.M. at any time during the harvest season and pick up a large crew of "transients," all broke, of about the same age, with similarly vague identifications, willing to work for piece rates in an orchard. The mind boggles at the number of transients that have passed through just this one skid row. Only one of the twenty-four victims was reported missing; only by chance were the other bodies found. Marysville police do not "fool around" with missing person reports on transients during the harvest season; "it would just fill up too many filing cabinets."

"It is a biting commentary on our morals," says state Sen. Mervyn M. Dymally, "that it takes the murder of twenty men, and the attention of the world's press, to point up the existence of this sorrowful subculture which we use—and abuse—to produce the food we eat." These men, comments Douglas E. Kneeland of *The New York Times,* "were already lost, already dead," when they were recruited for work. It is a shame, in a way, that their bodies were unearthed; the peach orchards provided a pleasanter resting place than any to which their bodies will now be consigned.

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Town and Gown for Peace

More than twice as many voters of Eugene, Oregon's second largest city and home of the University of Oregon, turned out to vote on a referendum calling for withdrawal of all U.S. troops from Vietnam by December 31, 1971 as had voted in the city's first special budget election last year. Also on the May 21st ballot was another special budget measure, and Fred Mohr, one of the four councilmen who supported the withdrawal proposal, thinks "the vote against the budget and for the anti-war referendum reflects opposition to the war primarily on economic grounds"—even though, as he added, there was no direct connection between the two measures.

Mayor Lester Anderson, who favored the anti-war resolution, said the 5,470-to-3,957 vote was no surprise to him. "The referendum should be helpful to Oregon's Congressional delegation as a reflection of the community's position." Ron Eachus, the militant University of Oregon student body president, who journeyed to Hanoi to help draw up the "People's Peace Treaty," saw the vote as a test of working within the system. "The vote here, as in other cities," he said, "shows that people are turning to the ballot box and the government will have to respond."

All through Oregon the peace movement is mounting an offensive which is the broadest and most sustained ever seen in this state. A week after the Eugene vote, the Oregon Senate passed by 26 to 4 a bill which would prohibit use of Oregon servicemen in armed hostilities outside the United States, unless war is declared by Congress. A year ago the peace movement, whatever there was of it, couldn't have gotten its position on the Eugene ballot. To do that, the students needed town support, and this time they got it.

Max Lowenthal

Among his friends and acquaintances, Max Lowenthal was known as a notoriously modest man. His benefactions, to individuals and institutions, were always anonymous. He did not want it known that most of his many services for government agencies had been performed without compensation. In fact he liked to keep up the amiable pretense that he had done nothing of serious public consequence. He was, incidentally, a lifelong friend of *The Nation*, and one who frequently volunteered editorial comments and suggestions and willingly responded to our queries.

Lowenthal attended the University of Minnesota and graduated from the Harvard Law School, where he edited the review. When Maxwell Brandwen graduated from the Law School a few years later, Dean Roscoe Pound advised him to join one of several prestigious New York law firms which he recommended. But Felix Frankfurter urged Brandwen to seek an association with Max Lowenthal, which he did. In a court action in the early 1920s, Lowenthal and Brandwen made a historic defense of trade unions, based on affidavits from scholars at the University of Chicago, Columbia University and elsewhere, outlining a modern philosophy for trade unions and justifying their role in society. Later Lowenthal was one of the organizers of the Amalgamated Bank. As the fateful year 1929 approached, he had clear intimations of approaching disaster and sold most of his stock holdings. At the same time he was insistent in his emphasis that depositors' security should be the bank's prime consideration. Not only were the Amalgamated's depositors safeguarded but the bank was never threatened with a run; it reopened the first day after the bank holiday.

It was after this that Lowenthal began his long years of public service: secretary to the Wickersham Commission on Law Enforcement; aid and adviser to Ferdinand Pecora's investigation of the stock market; and counsel to Senator Wheeler's investigation of railroad finances. Wheeler is supposed to have been prompted to undertake the investigation after reading Lowenthal's book, *The Investor Pays* (1933). It was while serving as counsel for this committee that Lowenthal met Senator Truman. He is said to have been an important behind-the-scenes influence in securing Truman's nomination as Vice President. He also served with the Office of Economic Warfare during World War II.

In 1950 Lowenthal published *The Federal Bureau of Investigation*, the first substantial book to be written about the bureau and its operations. It is one of the few books of which it can be fairly said that it was suppressed on publication; no effort was made to push sales and it became a collector's item the day it was "issued"—it was never really published. Many of the young scholars now interested in studying Hoover and the FBI, who visit *The Nation* in quest of leads and suggestions, have never heard of it. On the eve of publication, Representative Dondero, at the obvious suggestion of Hoover, wickedly attacked the book and its author. It is a measure of Dondero's sophistication that he thought the Harvard Law School was overrun with "parlor pinks, fellow-travelers, Communists and convicted perjurers," and that he was convinced that Lowenthal had left it to "infiltrate" the highly respectable firm of Cadwalader, Wickersham and Taft. In the wake of this attack and for quite some time, Lowenthal and his wife were harassed by agents of the House Un-American Activities Committee and the FBI. The attacks were silly, but they must have hurt, if only because the Establishment —even the Liberal Establishment—did not rally as one man to defend Lowenthal. Few more shameful episodes can be found in the history of "The Nightmare Decade."

Max Lowenthal belongs in the native American radical tradition. Not that he was a radical in the sense of being a Socialist or of seeking to "overthrow the system." But radical in the sense that with him facts were sovereign. Find the facts, verify them, publish them, study them, and let the remedy fit them. He was, in a sense, a precursor of Ralph Nader. Like other representatives of this discontinuous, half-buried but persistent tradition, he was an idealist with a deep compassion for the poor and the underprivileged and an abiding dislike of arrogant and irresponsible corporate power, whether in government, industry, business or finance. His career invites the attention of a biographer with an understanding of the times and a capacity to pierce the cloak of anonymity and modesty by which this remarkable man tried to conceal his outstanding public service.

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'THE DISUSE OF WOMEN'

ECONOMICS OF SEX BIAS

BETTY MacMORRAN GRAY
Mrs. Gray, who majored in economics at Vassar, is an editor with a Boston publishing house.

A women's liberation journal asserts, "To understand the superstructure of sexism today, female liberation must re-examine the foundations of civilization"—in the language of economics, a macro approach. Almost all of today's journals describe, in what comes close to a stereotype, the consciousness-raising meetings of a Liz, a Judy, a Sue. A micro approach.

Simone de Beauvoir says in *Force of Circumstance* that, if she had to write *The Second Sex* all over again,

> I should take a more materialist position today in the first volume. I should base the notion of woman as *other* and the Manichaean argument it entails not on an idealistic and *a priori* struggle of consciences, but on the facts of supply and demand. This modification would not necessitate any changes in the subsequent developments of my argument. On the whole, I still agree with what I said. I never cherished any illusions of changing woman's condition; it depends on the future of labor in the world; it will change significantly only at the price of a revolution in production. That is why I avoided falling into the trap of "feminism."

On balance, I choose de Beauvoir's approach. It strikes me as relatively practical, possibly French. For, although we are in a fix, we are not without tools—not only in automotive mechanics but also in psychology, anthropology, history and economics. As I read "movement" writing of whatever kind, I find little love of such tools. One exception, among others, seems to me Howard Zinn's manifest love of history—expressed, for instance, in *The Politics of History*. Zinn would not abandon history; he would try to use it well. The following note is an attempt to use economics in preference, say, to re-examining civilization or to essaying individual consciousness-raising, and to suggest some ways in which women's liberation can use it well.

A dominant call, whether voiced by liberal administrators of women's colleges, or by the ILGWU, or by radical women's liberation groups is, and has been for many years, for an increase in the quantity and quality of jobs for women. One often hears that women are unemployed, underemployed, underpaid; underlings. Very little is said about the interaction between the specific economic system under which we live and the condition of women as workers. Alfred Marshall, Cambridge's great economist at the turn of the century, asked, "Which blade of scissors does the cutting?" It is still a good question.

Capitalism is a specific system—as is the decimal system, the solar system, the Bell Telephone system. It is active and it is interactive with women's condition. It can no more use increasing numbers of women workers, on a regular basis, than the decimal system can use a pair of crazy eights. I shall examine, first, why capitalism cannot use increasing numbers of women workers; and, second, how capitalism systematically *disuses* women workers.

Under capitalism, individuals and corporations own and control the means of production, and employ them, in a competitive fashion, to pursue profits. No theorist or apologist, from Adam Smith to Milton Friedman, has ever claimed their purpose to be other than that. In his article on "Capitalism" in the *Encyclopedia of Social Sciences*, Werner Sombart writes, "An abstraction, the stock of material things, occupies the center of the economics stage. . . . The segregation of a certain range of activities into a distinct branch of industry is determined not by the outlook and limitations of a living personality but by purely material factors. . . . Labor is thus treated as a species of salable goods."

Capitalism's regulator has always been the market mechanism. It still is that, although new nuts and bolts have been added to it, for instance, by the price regulation of combines and the wage regulation of unions. Labor will be bought, along with other factors of production (say, iron, an acre of bottom land), when the parts of the market mechanism—demand and supply, market conditions, prices of goods and wages (a causal sequence)—interact to make the purchase of labor (or iron or land) yield the end product of the sequence: profits and more profits. Within the memory of most of us, the parts of the market mechanism have interacted so as to require the purchase of all available labor in only one period—in the full employment days and nights of World War II.

The market mechanism, thus, rarely requires the full employment of labor. What does it require of labor? It requires flexibility, or, to put the matter more bluntly, cyclical unemployment. Today, even President Nixon claims, "I am now a Keynesian." Yet all of Keynes's stabilization devices, at least the ones tried since the New Deal by both Democrats and Republicans, have failed to stabilize the mechanism's cyclical fluctuations—the rhythm of prosperity and depression or recession, of boom and bust. Full employment is rare. Cyclical unemployment is the rule. It rises and falls.

Labor consists, of course, of women workers and men workers. Women are no more exempt than men from being, under capitalism, "a species of salable goods." As goods, women are damaged, so to speak, in the sense that their employment is less protected, both by custom and unionization, than is that of men. (Approximately one out of every seven women is a "union maid"; one out of every four men is a union member.) Women must become more demanding if they are to be effective as workers. They must fight for inclusion in unions and for, say, day-care centers.

All workers are threatened increasingly by alternative goods. Automated goods make no demands—whether from within or without unions—and so they may prove to be the cheapest goods of all: the most productive of profits and more profits.

How does capitalism, unable to use an increasing

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quantity of women workers, systematically disuse women workers? Unemployment is awkward, especially when it spirals up against the background of the American dream. During busts, the numbers of unemployed rise to embarrassing highs. However, what might be called the "statistical-industrial complex" comes to the rescue of capitalism. Often it can obscure the awkward highs as effectively as a cloud can obscure the top of the Empire State Building. The statistical-industrial complex defines the labor force as being made up of people who are *at work, or eligible for and actively seeking work.* Consequently, it counts only those people as being either employed or unemployed. The logic is faultless, but the reality behind it—the reality of the definition itself—is awry. Economists estimate that the number of people who want jobs and don't have them at any given time is considerably higher than the official reports—how much higher depends on which economist you read.

Who are the workers who don't make the official reports —the hidden unemployed? In the main, they are the woman (sometimes called "married," sometimes "adult"), the teen-ager, the old man and the old woman—almost a group, a rather touching one, from a Faulkner novel. It is easy for the statistical-industrial complex to count them, *at will,* as either in or out of the labor force. It is easy to hide them, for they come from and go to some place—presumably, the home, the school, retirement.

It is difficult to hide white adult males and increasingly difficult to hide black adult males. Either they are working or they are hanging around, visibly and embarrassingly. During booms, the woman, the teen-ager, the old man and the old woman can be counted in; they are dubbed "Madam" and "Sir," the "emergency labor force," the "secondary labor force," the "peripheral labor force." During busts, they can be counted out. When they are counted out, not only are they not being used in increasing numbers but they are being systematically *disused*: the counting out compensates in large part for a major defect in the system of capitalism—for its cyclical fluctuations which lead to cyclical unemployment.

How do we know that, during a bust, the woman, the teen-ager, the old man and the old woman don't go back, happily, to cooking the chicken in the pot, to the Bunsen burners and the playing fields, to Florida? How do we know that their numbers are significant? We don't know about them all, but we have many clues about many. Here are three, from diverse years and sources.

(*1*) In 1944 and 1945, as the full employment years of World War II were coming to an end, the Women's Bureau surveyed 13,000 women who were employed in war-production areas and who represented all occupations, except domestic service. The bureau found that more than half of the women who had been housewives at the time of Pearl Harbor, and three-quarters of the girls who had been students, wanted to stay, after the war, on the job or on another job; wanted to stay within the labor force.

In 1947, however, J. Frederic Dewhurst explained in the Twentieth Century Fund's semi-official, indeed semi-biblical, *America's Needs and Resources*, that "Re-employment of returning servicemen and of workers laid off by munitions industries has been facilitated by the withdrawal of emergency war workers from the labor market." Indeed, 6 million of the 7 million members of the emergency labor force—which, according to Dewhurst, was made up of married women, young people of from 14 to 19, and superannuated-retired-marginal workers—"withdrew" within a year after the war's end.

(*2*) In 1955, the Bureau of the Census experimented with a new definition of unemployment. The bureau believed that the new definition might prove more objective than the existing one and more in accord with the actual labor force behavior of jobless people; that it might include, in addition to those actively seeking work, the inactive (people who wanted work but who judged there was no point in trying—at Macy's, at the machine shops).

The bureau turned up 1 million inactive unemployed. And the bureau stated, "Most of the additional persons who would be classified as unemployed under the proposed new definition were *teen-agers and adult women.* (Emphasis added.) If those million had been added to 1955's officially unemployed, they would have raised the total by one-third. The statistical-industrial complex failed to adopt the new definition; it is still using the old one.

(*3*) The woman, the teen-ager, the old man and the old woman, according to multitudinous reports, are forever "withdrawing from," "leaving" or "dropping out of" the labor force—at moments convenient for capitalism. A random example: "Last month's improvement [in unemployment] was due to a drop in unemployed women, presumably because they had left the labor force," wrote *The New York Times* on December 2, 1962. Another: "49,000 people, many of them students and housewives, dropped out of the work force [of Massachusetts] after the Christmas holidays," *The Boston Globe* reported almost a decade later, on February 25, 1971.

In such observations, the woman, the teen-ager, the old

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man and the old woman sound, in their labor-force behavior, as obliging as Fielding's Sophia who "took the first Opportunity of withdrawing with the Ladies," as content as baseball fans leaving a double-header, as ready as pears to drop out of a tree. It is likely, however, that the terminology of the statistical-industrial complex is as slippery as that of the Pentagon; that, for instance, "withdrawing" resembles "Vietnamization." A general comment (in a "Crisis of Confidence" editorial): "The Bureau of Labor Statistics is suddenly stopped from explaining its data when such an analysis might remind the American public that all is not well with the economy," from *The New York Times* of April 13, 1971.

It boggles the imagination—at least my imagination—how you can make a springboard for women's liberation out of capitalism. Capitalism, which rarely requires full employment, cannot use increasing numbers of women workers. Capitalism, which needs to compensate for cyclical unemployment, systematically disuses women workers.

Surely, all liberators, whether concerned primarily with re-examining civilization or with individual consciousness-raising, or indeed with the locus of the orgasm, would agree that for any freely chosen activity a chance, at least, at a room of one's own is necessary; would agree that rents and mortgages come high these days. No true liberator could suggest a take-over of jobs and of rooms by women. No such take-over, even if successful, could last—for then there would be men's liberation and then women's liberation and then. . . .

If we are serious about women's liberation, we must challenge, or at least explore, capitalism's interaction with women's condition. For such activity, the statistical-industrial complex seems to me an ideal starting place. Indeed, we must use economics well. If we do, we may find that woman is, in de Beauvoir's simple word and rich concept, *other* to the system of capitalism; that man too is *other* to the system of capitalism; that woman is *not necessarily other* to man. □

MISLEADING THE PRESIDENTS

THIRTY YEARS OF WIRE TAPPING

ATHAN G. THEOHARIS
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The history of government use of wire tapping, particularly during the early years of the Truman Presidency, provides one reason for concern over White House-Justice Department relations. In 1940, responding to the outbreak of war in Europe and the subversive role played during the 1930s by Fascist parties in France, Austria and Czechoslovakia, the Roosevelt administration supported legislation to legalize wire tapping in "national defense" cases. At that time, Rep. Emanuel Celler (D., N.Y.) had introduced a bill that would have amended section 605 of the Communications Act of 1934 and permitted the FBI, subject to the approval of the Attorney General, to wire tap in cases involving interference or attempts to interfere with the national defense by sabotage, espionage, conspiracy, violation of the neutrality laws, or "in any other manner." Information thus obtained was to be admissible as evidence. The Congress failed to enact the legislation and, lacking legislative authorization, President Roosevelt on May 21, 1940 issued instead an executive order stipulating:

> I have agreed with the broad purpose of the Supreme Court decision [in *Nardone*] relating to wiretapping in investigations. The Court is undoubtedly sound both in regard to the use of evidence received over tapped wires in the prosecution *of citizens* in criminal cases; and it is also right in its opinion that under ordinary and normal circumstances wiretapping by government agents should not be carried out for the excellent reason that it is almost bound to lead to abuse of civil rights.
>
> However, I am convinced that the Supreme Court never intended any dictum in the particular case which it decided to apply to grave matters involving the defense of the nation.
>
> It is, of course, well known that certain other *nations* have been engaged in the organization of propaganda of so-called "fifth columns" in other countries and in preparation for *sabotage*, as well as in active sabotage.
>
> It is too late to do anything about it after sabotage, assassinations and "fifth column" activities are completed.
>
> You are, therefore, authorized and directed in such cases as you may approve, after investigation of the need in each case, to authorize the necessary investigating agents that they are at liberty to secure information by listening devices direct to the conversation or other communications of persons suspected of subversive activities against the Government of the United States, including suspected spies. *You are requested furthermore to limit these investigations so conducted to a minimum and to limit them insofar as possible to aliens.* (Emphasis added.)

With the end of World War II and Harry S. Truman's accession to the Presidency, the issue of continuing this directive came into question. In July 1946, Tom C. Clark, Truman's Attorney General, pressed the President to continue the wire-tapping authorization. Exploiting Truman's anxieties about deteriorating U.S.-Soviet relations, the active role of the U.S. Communist Party in civil rights and labor activities, and recent disclosures of subversion or

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lax security procedures, Clark wrote the President on July 17, 1946:

> Under date of May 21, 1940, President Franklin D. Roosevelt, in a memorandum addressed to Attorney General Jackson, stated:
>
> "You are, therefore, authorized and directed in such cases as you may approve, after investigation of the need in each case, to authorize the necessary investigating agents that they are at liberty to secure information by listening devices direct to the conversation or other communications of persons suspected of subversive activities against the Government of the United States, including suspected spies."
>
> The directive was followed by Attorneys General Jackson and Biddle, and is being currently followed in the Department. I consider it appropriate to bring the subject to your approval at this time.
>
> It seems to me in the present troubled period in international affairs, accompanied as it is by an increase in *subversive activities here at home,* it is as necessary as it was in 1940 to take the investigative measures referred to in President Roosevelt's memorandum. At the same time, the country is threatened by a very substantial increase in *crime.* While I am reluctant to suggest any use whatever of special investigative measures in *domestic* cases, it seems imperative to use them in cases *vitally affecting the domestic security,* or where human life is in jeopardy.
>
> *As so modified,* I believe the outstanding directive should be continued in force. If you concur in this policy, I should appreciate it if you would so indicate at the foot of this letter.
>
> In my opinion, the measures proposed are within the authority of law, and I have in the files of the Department materials indicating to me that my two *most recent predecessors* as Attorney General would concur in this view. (Emphasis added.)

While implying that this new directive would be a simple extension of Roosevelt's policy, and thereby reducing any suspicions that Truman might have held about wire tapping and the relationship of this policy to that of his predecessor, Clark had significantly distorted the Roosevelt directive. In his quote from the operative paragraph of Roosevelt's directive, Clark had deleted its last qualifying sentence—"You are requested furthermore to limit these investigations so conducted to a minimum and to limit them insofar as possible to aliens." Moreover, Clark's letter did not convey the essence of the Roosevelt memorandum, whether Roosevelt's concern about the abuse of this authority or his restriction of wire tapping to foreign activities involving sabotage. In addition, Clark's intent went significantly beyond Roosevelt's, in that he proposed that wire tapping be used to investigate domestic crime or "subversive" activities. In the absence of good staff work that would have apprised him of the specific nature of Roosevelt's policy, and accepting the assurances of his Attorney General, Truman signed the letter. By so doing, he provided the basis for a significant change in executive wire-tapping policy.

The manner by which this extension was secured reveals much about the relationship of the President and his Attorney General and the effective control that an executive exercises over his subordinates. Subsequent developments raise questions about Justice Department use of public relations. Thus, when popular concern about FBI wire tapping arose in the Judith Coplon case in 1949 and again in 1950, the Department of Justice sought through press releases to convey the impression not only that wire tapping was tightly controlled and restrained, but that the basis for this authority derived from President Roosevelt. In March 1949, Attorney General Clark maintained that FBI wire tapping had occurred only "in limited cases with the express approval in each individual instance of the Attorney General. There has been *no new* policy or procedure since the *initial* policy was stated by *President Roosevelt* and this has continued to be the Department's policy whenever the security of the nation is involved." (Emphasis added.)

Knowing how wire tapping was extended and publicly justified during the Truman years is sufficient reason for requiring that the legislature delineate specifically the limits to executive "national security" uses of the technique. As matters stand, there is assurance neither that the President will use wire tapping with restraint nor that he will be fully apprised of procedures instituted within his own administration. The complexity and far-reaching responsibilities of the modern Presidency have increased the possibility that the Chief Executive will not be fully informed about the basis for policy decisions or the procedures of his subordinates. Necessarily dependent for advice and information on nonresponsible subordinates, a cold-war President is vulnerable to being manipulated and, beyond that, to manipulating the Congress and the public. The corruption inherent in unlimited grants of power requires that traditional processes of control be established, that the simple affirmation of "national security" not remove constraints that would limit abuse or specifically delineate executive authority.

In this sense, the language of Title III of the Omnibus Crime Control Act of June 1968 is too vague to provide the safeguards that national policy requires. Moreover, when formulating and debating the Act, Congress failed to fulfill its legislative responsibilities and let references to "national security" avert the necessary consideration of Presidential powers and uses of wire tapping. This authorization of wire tapping by federal, state and local law-enforcement agencies demands careful scrutiny as to its constitutionality, wisdom and necessity. Most important, it must be determined whether a simple claim of "national security" seriously restricts the liberties of nonconformists, radicals or dissenters. In this article, I shall discuss the "national security" provision of Title III of the Omnibus Crime Control Act of 1968; the related question of the constitutionality of wire tapping in criminal cases will not be treated.

The major themes of the debate over this authorization were immediately outlined when Ramsey Clark, incumbent Attorney General, after passage of the Act and during testimony before the Senate Appropriations Committee, expressly opposed wire tapping as a general tool of law enforcement. It was not necessary, Clark affirmed, in criminal investigations; constitutional limitations made it virtually useless as a method of crime detection. More effective law enforcement at the local level

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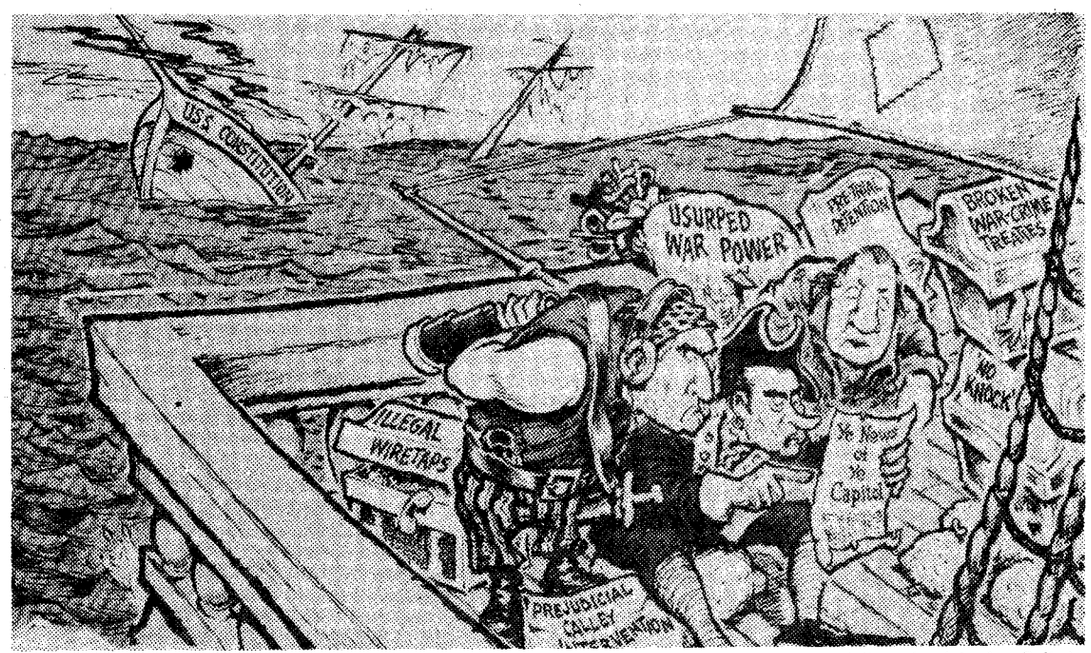
was the best means to prosecute crime. Consistent with this position, Clark refused to employ the broad grant of authority provided by the Act, restricting federal use to national security cases.

John Mitchell, Clark's successor, does not share this aversion; he has expressed his intention to utilize the authority provided by the Act. His statement of Justice policy, particularly enunciated in a brief filed in Chicago Federal District Court and released in Washington on June 13, 1969, outlined the general objectives and methods of departmental wire-tapping policy. In this brief, the Attorney General maintained that the Department of Justice had legal power, without court approval, to eavesdrop on members of organizations it believed intended to "attack or subvert the Government by unlawful means." Mr. Mitchell further acknowledged that the Justice Department had instituted wire taps on four of the eight defendants in the Chicago conspiracy trial. Outlining the justification for this action, the brief contended:

> There can be no doubt that there are today in this country organizations which intend to use force and other illegal means to attack and subvert the existing form of government. Moreover, in recent years there have been an increasing number of circumstances in which Federal troops have been called upon by the states to aid in the suppression of riots. Faced with such a state of affairs, any President who takes seriously his oath to "preserve, protect and defend the Constitution" will no doubt determine that it is not "unreasonable" to utilize electronic surveillance to gather intelligence information concerning these organizations which are committed to the use of illegal methods to bring about changes in our form of government and which may be seeking to foment violent disorders. . . .
>
> The question whether it is appropriate to utilize electronic surveillance to gather intelligence information concerning the activities and plans of such organizations in order to protect the nation against the possible danger which they present is one that properly comes within the competence of the executive and not the judicial branch.

The vagueness of this policy statement, the implication that wire tapping would be used for domestic surveillance—without court authorization, at the sole discretion of the executive branch and with no heed either to the prohibitions of the Fourth Amendment or to the court-approved requirements of Title III of the Omnibus Crime Control Act—heightened fears within the legal profession and among certain liberal and radical organizations. This alarm coincided with further disclosures about Justice Department and FBI investigative activities. At about the time of the passage of the 1968 Act, it became known that the FBI had wire tapped not only the Chicago conspiracy trial defendants but also Joe Namath, Mohammed Ali, Dr. Martin Luther King, Jr., Stokely Carmichael, Elijah Muhammad, the Black Panthers, certain anti-war groups, H. Rap Brown, Roy Cohn, Dr. Benjamin Spock, and the other defendants in the Boston draft case. Indeed, one civil libertarian, commenting on the extent of this use, feared that: "Given the nature and manifestations of unrest in our cities, there is a real possibility that eavesdropping could be employed to control the protests of the poor and their supporters who petition for redress of grievances."

In response, the ACLU on June 26, 1969 filed a suit in the U.S. District Court in Washington on behalf of nine anti-war and Black Power organizations and the eight defendants in the Chicago conspiracy trial. Seeking to ban electronic surveillance of political dissenters, and citing the Justice Department's June 13th brief and its implied use of "national security" to justify surveillance of dissident political groups, the ACLU brief condemned Attorney General Mitchell and FBI Director Hoover for having "assumed judicial, penal and otherwise regulatory control over the protesting activities of all dissenting



Muller, Honolulu Star Bulletin

"The Nerve! Why, Blocking Traffic Is Illegal!"

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Americans," and for their announced policy of "unfettered executive power to determine possible danger."

The concern motivating the ACLU suit seemed to be confirmed by a subsequent *New York Times* story reporting the response of Nixon Administration aides to recent bombing incidents. On April 12, 1970, the *Times* reported that these unidentified aides viewed the occurrence of domestic bombings as posing a serious internal security threat that required electronic surveillance. One of them remarked to the *Times* correspondent that had the FBI put a tap on the phone of Diane Oughton, who was killed in a Greenwich Village bomb explosion, it might have been able to arrest her before the bomb exploded. The *Times* writer wondered whether the Administration was making a case for greater surveillance of domestic radicals.

The fear that wire tapping can amount to political surveillance of radicals and dissenters leads one to examine the broad authority granted by the Omnibus Crime Control Act. Section 2511, Title III stipulates:

> Nothing contained in this statute or in section 605 of the Communications Act of 1934 . . . shall limit the *constitutional* powers of the *President* to take such measures as *he deems necessary* to protect the Nation against *actual* or *potential* attack or *other hostile acts* of a foreign power, to obtain foreign intelligence information *deemed* essential to the security of the United States, or to protect national security information against foreign intelligence activities. Nor shall anything in this chapter be deemed to limit the *constitutional* power of the President to take such measures as *he deems necessary* to protect the United States against the overthrow of the Government by force or *other unlawful means*, or *against any other clear and present danger to the structure or existence* of the Government. The contents of *any* wire or oral communication intercepted by *authority of the President* in the exercise of the foregoing powers may be received in evidence . . . only where such interception was *reasonable*, and shall not be otherwise used or disclosed except *as is necessary* to implement that power. (Emphasis added.)

The majority report of the Senate Judiciary Committee, issued on April 29, 1968, stressed the same themes. Its language did nothing to define more precisely the limits to executive wire-tapping authority in the realm of "national security." While emphasizing the need to prohibit unauthorized use of wire tapping and to prevent its abuses, the report nonetheless added:

> It is obvious that *whatever* means are necessary should and must be taken to protect the national security interest. Wiretapping and electronic surveillance are *proper* means for the acquisition of counterintelligence against hostile actions of foreign powers. *Nothing* in the proposed legislation seeks to disturb the power of the President in this area. Limitations that might be deemed proper in the field of *domestic affairs* become artificial when international relations and *internal security* are at stake.

The report further emphasized:

> Paragraph (3) is intended to reflect a distinction between the administration of domestic criminal legislation not constituting a danger to the structure and existence of the Government with the conduct of foreign affairs. It makes it clear that *nothing* in the proposed chapter or other act amended by the proposed legislation is intended to limit the *power of the President* to obtain information by *whatever* means to protect the United States from the acts of foreign powers including actual or *potential* attack of foreign intelligence activities, *or any other danger to the structure or existence* of the Government. When foreign affairs and *internal security* are involved, the proposed system of court ordered electronic surveillance envisioned for the administration of domestic criminal legislation *is not intended necessarily to be applicable*. . . . The *only* limitation recognized in this use is that the interception *be deemed reasonable based on an ad hoc judgment taking into consideration all of the facts and circumstances of the individual case*. (Emphasis added.)

Although the implication of the language of the report and of Title III was that this broad grant of authority was based on the President's constitutional prerogatives and was intended simply to meet a foreign threat, particularly foreign intelligence, the qualifying references to "internal security" and "other danger to the structure or existence of the Government" could be used to authorize surveillance of radical anti-war, Black Power, or socialistic groups. Seeking to quell fears of domestic surveillance, the bill's proponents contended that the authorization was tightly defined, that use of it would be restrained and consistent with constitutional and libertarian principles.

Indeed, the majority report of the Judiciary Committee abounds with reassuring phrases. With the exception of "duly authorized" law-enforcement officials investigating "specified type of crimes" pursuant to prior court order, wire tapping was prohibited. Indeed, one reason for the proposed legislation was the threat posed by scientific and technological developments in electronic surveillance. Authority for wire tapping was "carefully circumscribed." "[T]he *Berger* and *Katz* decisions [were used] as a guide in drafting Title III . . . [which] has as its dual purpose (*1*) protecting the privacy of wire and oral communications, and (*2*) delineating on a uniform basis the circumstances and conditions under which the interception of wire and oral communications may be authorized."

The language of the Act contained the same assurances. This legislation was intended to prevent wire tapping "without legal sanction" and "to define on a uniform basis" the circumstances and conditions where it would be authorized. Electronic surveillance would be permitted only "when authorized by a court of competent jurisdiction" and would be limited to "certain major types of offenses and specific categories of crime with assurances that the interception is justified and that the information obtained thereby will not be misused." A thirty-day limit was imposed on each tap, although this authority was renewable. Exceptions to the obtainment of a court order were permitted for reasons of "national security" or where an "emergency situation" required immediate action. In the latter case, law-enforcement officials were allowed to tap for a forty-eight-hour period before being required to secure court approval. Finally, a National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Eavesdropping was to be established and given responsibility to review the use and operation of the law. The commission was specifically directed to report its findings to the President and Congress.

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During the Senate debate on the proposed bill, Sen. John McClellan (D., Ark.), the floor manager of the bill, also emphasized that the "first major purpose of the Title III is to protect privacy of communication." The bill, McClellan added, "has been carefully drafted to meet both the letter and spirit of the constitutional tests set out in *Berger* and *Katz*. Electronic surveillance is authorized but only under strict controls. Broadly, Title III creates a court order system of electronic surveillance. . . . Approval may be given only under certain carefully detailed conditions. . . . It clearly and narrowly assures that electronic surveillance is intended to be the exception, rather than the rule. It is envisaged that these techniques will be employed in only limited numbers and kinds of criminal investigations. On the federal level, the two chief areas are national security matters and organized crime. The specific offenses are designated in the statute. Finally, Title III sets out a series of detailed reporting requirements."

This rhetorical disparagement of unwarranted fears of "Big Brother" was continued after 1969 in public statements by the Nixon Administration and Senator McClellan. The use of wire tapping, both maintained, was restrained; the number of taps was numerically insignificant. In a June 19, 1969 press conference, moreover, President Nixon described his Administration's wire-tapping policy as being "that it should be used very sparingly, very carefully—having in mind the rights of those who might be involved—but very effectively to protect the internal and external security of the United States." A House Republican Task Force on Crime, Atty. Gen. John Mitchell, and Deputy Atty. Gen. Richard Kleindienst similarly emphasized the care to be exercised.

And, in a series of press releases, the Justice Department reported the number of court-approved wire taps in use as being 54, 31, 70, 33. These varying figures, however, referred only to court-approved wire taps which had been terminated and did not include "national security" taps. The release, and news stories based on it, did not emphasize the distinction, and the low figures cited seemed to bespeak great caution and minimal use.

Senator McClellan and others in the Senate iterated this contention, while at the same time extolling the successes of Administration use of wire tapping. Disclosing that the Justice Department had reported using wire taps or electronic surveillance in 133 cases in the eighteen-month period since the Nixon Administration had assumed office, McClellan praised the effective use of this technique. He cited the number of indictments, arrests and convictions made possible by taps, and observed that Attorney General Mitchell had personally studied each request before authorizing application for court approval. The Justice Department, McClellan emphasized, had made a total of 137 court requests, only one of which had been denied, and had used the court authorization in every case but three. However, McClellan's analysis, like the Justice Department's press releases, failed to mention the extent of departmental usage in "national security" cases; nor did it discuss how the President and his Attorney General defined either the executive's "constitutional" powers or threats to the "structure or existence" of the government.

Accordingly, both the constitutionality and the extent of departmental use of wire tapping, outlined in the June 13, 1969 brief, require a determination of the nature of and legitimacy for the authority granted under the Omnibus Crime Control Act. The Act itself—in contrast with McClellan's assurances during Senate debate and the majority report's emphasis—does not define the limits to executive authority. The Act and the report virtually cede to the President unchecked latitude on "national security" grounds, clearly approving an extensive use, though qualifying this grant by references to "constitutional" powers or "reasonable" purposes. The opportunity of Congressional debate, since specific amendments were offered to Title III of the Senate bill (S. 917) and formal opposition was led by Sens. Philip Hart (D., Mich.) and Edward Long (D., Mo.), should have delineated what powers and latitude, what limits to executive authority, the Congress intended to convey by this legislative grant. Presumably, this debate would have made evident whether the June 13, 1969 brief was consistent with the 1968 Act and with the limitations the Congress recognized to the constitutional powers of the President.

In their minority report, Senators Long and Hart contended that Title III was "unconstitutional, as it provides for unreasonable searches and seizures." Hart maintained in addition that section 2511 (3)—"against any clear and present danger to the structure or existence of the Government"—left too much discretion to a President:

> Under 2511 (3) a President on his own motion could declare a militant right wing group (i.e., the Minutemen) or left wing group (i.e., Black Nationalists), a national labor dispute, a concerted tax avoidance campaign, draft protesters, the Mafia, civil rights demonstrators, a "clear and present danger to the structure of the Government." Such a declaration would allow unlimited unsupervised bugging and tapping. . . . As drafted . . . Section 2511(3) gives the President a blank check to tap or bug without judicial supervision, when he finds, on his own motion, that an activity poses a "clear and present danger to the Government."

During Senate debate on Title III, Hart again raised the point. The language of the bill as drafted, he argued, failed to provide limits to executive authority or to delineate the basis for the national security exception. Hart's speech drew a response from Senators McClellan and Spessard Holland (D., Fla.) over the meaning of the bill's language. The issues raised in this extended debate, and the specific responses of McClellan and Holland to Hart's queries, because important for an understanding of Congressional intent, warrant extensive quotation.

Introducing the discussion on the meaning of section 2511 (3), Hart maintained that, as he read the language, the President would be authorized to declare that the Black Muslims, Ku Klux Klan, draft dodgers, or civil rights advocates constituted a clear and present danger. Hart continued, "If that is the case, section 2511 (3) grants unlimited tapping and bugging authority to the President. And that means there will be bugging in areas that do not come within our traditional notion of national security." Hart then pressed McClellan as to whether this reading of section 2511 (3) was a fair one.

In reply, McClellan evasively stated, "This language is language that was approved and, in fact, drafted by the Administration, the Justice Department. I have not challenged it. I was perfectly willing to recognize the

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Garner, Evening Star (Washington)

power of the President in this area. If he felt there was an organization—whether black, white or mixed, whatever the name and under whatever auspices—that *was plotting to overthrow* the government, I would think we would want him to have the right." McClellan further maintained that it was not necessary to define the President's powers and, moreover, that the language coincided with the "spirit of permitting the President to take such action as *he deems necessary when the government is threatened*." (Emphasis added.)

As defined by McClellan, the bill permitted surveillance of groups or individuals planning overt revolutionary acts; it presumably did not include radical politics as such. However, the distinction was not made explicit in the bill or in the majority report, being left to the discretion of the President. Accordingly, Hart pursued this matter further, seeking to determine what McClellan understood the President's constitutional powers to be and what limits he recognized to Presidential action in the national security area. Hart asserted, "If, in fact, we are here saying that so long as the President *thinks* it is an activity that constitutes a clear and present danger to the structure and existence of the government, he can put a bug on without restraint, then clearly I think we are going too far." Responding to this statement, Senator Holland deemed Hart "unduly concerned about this matter." The section to which Hart referred did not "affirmatively" give any power to the President, but simply stated that Presidential power was not restricted. "There is *nothing* affirmative in the statement." McClellan concurred.

Conceding that the Congress could not extend Presidential powers, Hart nonetheless maintained that the language of the section as drafted did not define the limits of the President's national security power under present law. "As a result of this exchange," he added, "I am now sure no President, thinking that just because some political movement in this country is giving him fits, *he could read this as an agreement from us that, by his own motion, he could put a tap on*." There was not "a single indication that anything affirmative is being done," Holland reiterated; but the Congress was not foolishly seeking to "negate" the constitutional powers of the President.

This exchange, combined with the unsuccessful efforts by Senators Hart and Long to secure Senatorial approval of amendments to clarify the language of the bill and to limit the national security exceptions of Title III to "foreign" threats, comprised the entire Senate discussion.

The Senate's failure to define the nature of the legislative grant was duplicated during House debate. S. 917, drafted by the Senate Judiciary Committee and approved by the Senate, differed appreciably from the earlier House-approved bill, H.R. 5037. Accordingly, Rep. Emanuel Celler, the liberal chairman of the House Judiciary Committee, sought to refer the bill to conference. His attempt was stymied by House conservatives who exploited "law and order" and the effect on the public of the recent assassination of Robert Kennedy. The House then proceeded to vote on a resolution approving the Senate bill, debate on which was stringently limited by the Rules Committee. The hastiness of House consideration of the Senate bill and the time limits established for debate prevented opponents from rallying opposition or from raising probing questions to define the meaning of the bill's provisions.

At best, then, House analysis was perfunctory and superficial. Critics of Title III expressed their opposition in general terms, objecting as much to the constitutionality and repressive character of the authority to wire tap in criminal cases as to section 2511 (3)'s broad grant of Presidential authority in national security cases and its possible use for political surveillance.

House debate, as reported in the *Congressional Record*, did, however, reveal Congressional ignorance and misunderstanding of what exactly had been approved. This came out sharply in explanatory comments by Reps. William Randall (D., Mo.) and Howard Pollock (R., Alaska). (Their errors are the more striking since neither Representative exercised the option provided by the House rule permitting a member to revise within forty-eight hours any comments he has made during floor debate.) Thus, Randall affirmed that Title III limited abuses by requiring court approval before wire tapping. "Only in the case of national security," Randall continued, "can wire taps be made without a court order. And even these are invalid if application for such order *is not made within forty-eight hours* after such surveillance is undertaken." Pollock made a similar error. Law-enforcement officers, he said, had to secure court approval except in certain "limited" cases where wire tapping was permitted for forty-eight hours "if it concerns national security or organized crime" which are of an "emergency" nature.

The lackadaisical nature of Congressional debate urgently raises important political and constitutional questions about Title III. Apart from the issue of whether wire tapping is an "unreasonable" search and seizure or a

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violation of First Amendment liberties is the question whether by this act the Congress unconstitutionally and irresponsibly delegated unwarranted authority to the executive. And, although the Supreme Court has for more than thirty years seen fit not to apply the *Schechter* decision, accepting instead broad delegations of power to the executive, the principle enunciated by Chief Justice Hughes in that case has bearing on the wire-tapping grant of the Omnibus Crime Control Act. Declaring the majority position of the Court, Hughes then affirmed:

> Extraordinary conditions may call for extraordinary remedies. . . . Extraordinary conditions do not create or enlarge constitutional power. The Constitution established a national government with powers deemed to be adequate, as they have proved to be in war and peace, but these powers of the national government are limited by constitutional grants. . . .
>
> The Congress is not permitted to abdicate or to transfer to others the essential legislative functions with which it is vested. We have repeatedly recognized the necessity of adapting legislation to complex situations involving a host of details with which the national legislature cannot deal directly. . . . But we said that the constant recognition of the necessity and validity of such provisions, and the wide range of administrative authority which has been developed by means of them, cannot be allowed to obscure the limitations of the authority to delegate, if our constitutional system is to be maintained. . . .
>
> . . . Section 3 [of the National Recovery Act of 1933] set up no standards, aside from the statement of the general aims. . . . In view of the scope of that broad declaration, and of the nature of the few restrictions that are imposed, the discretion of the President . . . is virtually unfettered.

This constitutional argument of legislative responsibility, it can thus be argued, equally and pointedly applies to executive authority in "national security" areas where, with the resort to wire tapping, an additional constitutional question is involved. The cold war has had a profound effect on American politics, especially as it has contributed to extending Presidential authority. As a result, traditional Congressional restrictions on executive powers in the military-foreign policy areas have been reduced, and the Court has avoided confronting executive authority in the "national security" area. At the least, this development has as one basis the President's prerogatives as Commander in Chief and his right to appoint ambassadors, formulate treaties, and shape foreign policy. But the same constitutional justification does not equally prevail in the internal security area, where executive authority is less clear and constitutional restrictions specifically limit administration investigative and prosecutive activities.

These considerations do raise two issues. First, whether Title III of the Omnibus Crime Control Act of 1968 is an exercise of legislative responsibility and, second, whether the title provides an unwarranted and unwise grant of authority, particularly in view of the process by which its provisions were reviewed and Congressional intent established. The other issue concerns the relationship between the President and the Department of Justice —which, if viewed historically, would require that the Congress be more judicious when ceding almost unlimited wire-tapping authority to the executive. □

CANADIANS WHO TEACH

ALIENS IN THEIR OWN LAND

LESLIE ARMOUR
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Being a foreigner in one's own country is a curious and unnerving experience. It is one that Canadians who teach in Canadian universities face with increasing frequency.

Some of the cruder facts are no longer much in dispute. In faculties of arts and science, Canadians comprised, by 1969, just about half the staff. The most reliable counts put the figure at 49 per cent. There are departments in which only one teacher in ten is a Canadian.

The proportion of Canadians has probably fallen since then: six years ago, Canadians got more than 40 per cent of new appointments; four years ago the figure had dropped to 30 per cent. More recent figures are speculative, but the trend seems to have gone unchecked until about a year ago. By now, publicity may be having its effect; some sources suggest that in Ontario this year half the jobs will go to Canadians. But the basic position remains unchanged.

About half the non-Canadians who get jobs in Canadian universities are Americans. In 1968, for instance, 2,280 immigrants gave their occupation as "professor." They included 1,013 Americans, 545 Britishers and 672 others.

Arguments go on about the figures. Not all universities keep nationality counts and some universities won't reveal the counts they do keep. One way of counting is to notice where faculty members got their first degree. People usually take their first degrees at home. Most of the figures in circulation were collected by Profs. Robin Mathews and James Steele—two men from Carleton University whose names have become household words in Canada as the controversy has gathered wind—and no one has been able to provide any ground for believing that they are very far wrong.

The data about trends may be sneakier just because the phenomenon is a very old one and the movement of non-Canadians in and out of the universities may well

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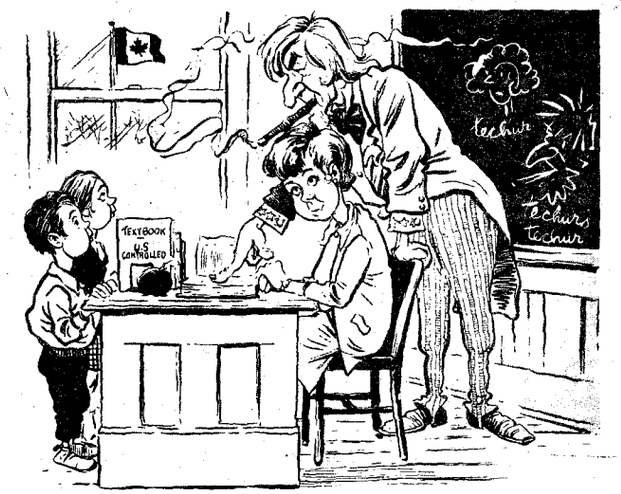
have proceeded by fits and starts. When I was an undergraduate at the University of British Columbia—twenty years ago—just one of the four members of the Philosophy Department was a Canadian. A glance at the current university calendar suggests that the proportion hasn't changed much, though the department has grown fourfold. There are certainly many departments of the humanities and the social sciences at Canadian universities in which Canadians have never been in a majority. (One of Professor Steele's most startling findings was that in the History Department at the University of Toronto, one of the oldest and most Canadian universities in the country, Canadians are—or were a couple of years ago—in a minority: 46 per cent. Yet Canada not only has a history; it has also always been rich in historians. At Toronto now, the chairman of the Philosophy Department is also American-born.)

The most vulnerable areas have always been the social sciences and the humanities (law schools and medical schools tend to be staffed by Canadians, as do other disciplines that require "licensing"), and the vast expansion in these fields during the last decade has made the issue more obvious and pressing.

Non-Canadians are not spread evenly throughout the various disciplines or across the fifty-nine universities and colleges in the country. I have taught for nine years in the Philosophy Department at the University of Waterloo. For most of that time, there have been two Canadians in a department which, recently, has had about twenty full-time members. When I leave for Cleveland in September (assuming that I am lucky enough to get a U.S. immigrant visa), one Canadian will be left on the full-time regular staff. One of my graduate students, who got his Ph.D. in May, has been hired for one year as a temporary assistant professor. About four others will be part-time instructors and other Canadians, pursuing their graduate studies as senior teaching fellows, will give introductory courses under supervision. But—barring the lucky arrival of a visiting professor—only one Canadian will be among the nineteen regular full-time teachers. I can think of a dozen other Philosophy Departments in which the situation is about the same and very few in English Canada differ significantly. Waterloo runs heavily to Americans—thirteen in the Philosophy Department. Other universities favor Englishmen or Scotsmen.

How did things get this way? Nobody really knows. The older universities in English Canada had their start at various times in the 19th century, England and Scotland most often providing the staffs for them. Young Canadians were sent abroad, at first often to the United Kingdom and then, increasingly, to the United States, for graduate studies. Frequently they couldn't find jobs at home when their studies were completed—the people doing the hiring preferred the domestic product. Some, of course, didn't want to come home.

It seems likely that during periods of surging national awareness (after each of the two World Wars for instance) more Canadians wanted to come home and more were welcome, but the pattern was never wholly broken. I went to the University of London and when, in 1956, I received my Ph.D., there seemed to be no jobs in



Chambers, Halifax Herald (Canada)

Tutor Tutoring Teacher Teaching Tots

Canada. Some universities didn't even answer my letters. I went to Montana and on to California. Five years later I had become respectable enough to be invited home. My experience was by no means unique.

During the rapid expansion of the 1960s, Canadians either couldn't be found or just weren't found. The new universities, usually unable to attract staff from their established predecessors, looked to the United States. The vastness and complexity of the American academic scene make it inevitable that a considerable number of good people in bad places are willing to take a chance on new universities. Relatively high salaries, a short academic year (usually ending in April) and the push to establish and expand graduate studies also made Canada attractive to Americans.

This expansion was accompanied by the quite massive growth of graduate programs, and Canadians began not only to be available but visible—they were less often far away, being educated at Harvard or employed in South Dakota or North Carolina. Canadians who had come back also began to hear about more Canadians abroad who wanted to return home, and the new universities began to attract Canadians in the older universities.

Surprisingly, this doesn't seem to have led to the hiring of Canadians. In the last five years, my own department about doubled in size. Thirty-five qualified Canadians applied in those years, two or three of them being among the two dozen best-known philosophers in Canada. But not one was hired (or was offered a job). The pattern could be repeated any number of times.

It is at this point that people began to get by turns puzzled, worried and angry. Nowadays, hiring is done democratically in all decent universities. Candidates are rounded up, invited to read papers, argued over, and voted on. The majority wins. That is as it should be—other things being equal. The trouble is that, in this situation, things are often not equal.

Academics tend to rely heavily on the opinions of people they know and trust. If you're an Englishman or an American in Canada you've probably never heard of the Canadians who write letters on behalf of other Canadians, and Canadians phrase letters of recommendation

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a little differently from the American style. Traditionally, grading standards have differed: a "B" used to be a very good grade at a Canadian university and a mediocre grade at most American universities. So the dice might be loaded against Canadian candidates. That problem is often compounded by differences of doctrine.

In philosophy, I suspect, it is a real problem. It is true that almost every philosophical position which a rational man could hold is held by someone, somewhere, in an American university. But at most times in this century there have been dominant fashions in doctrine.

Currently certain kinds of analytic philosophy—mostly given to deflating speculation, analyzing language and dissolving philosophical problems with a variety of real and pseudo-logical devices—are most popular in the United States. Certain existentialist and phenomenological theories also have large followings. Other views (including the native species of pragmatism) follow far behind. The Americans who staff Canadian universities mostly arrived during the full flower of the analytic movement.

The philosophical tradition in Canada has tended to be pluralistic, heavily influenced by some facets of Hegelianism and given to large-scale syntheses. Reason has figured rather as a device for illuminating possibilities and not, as if it were a substitute for force, a device for compelling assent. Many Canadian philosophers have become interested, of course, in the problems posed by the analytic philosophers, but they have usually taken a softer line about them.

Indeed, candidates interviewed by my department often seemed "soft" and "woolly" to my American colleagues. Cultural clash has turned out to be a reality. The business of justifying yourself (and your graduate students), when you think you're at home and working in your own tradition, becomes embittering, and those of us on the inside have suffered along with the candidates.

In the social sciences, I suspect, matters are even more complex. The modern social sciences—as they are practiced in the English-speaking world—are very much an American creation; they have grown out of the American experience and out of American aspirations. The distinction between economics and political science, for instance, surely has something to do with particularly American convictions. It has been brought to Canada as somehow an accepted fact—though the University of Toronto still has, in name at least, a Department of Political Economy. But is it so obvious in a country where no political party has ever accepted the distinction?

And what of the notion that one can study sociology apart from history? Or the distinction between sociology and anthropology? Both views imply a theory that one must hold before one begins research; perhaps they make less sense in Canada than in the United States.

At a much deeper level, the whole thrust of the so-called behavioral sciences, with their bias toward a behavioristic methodology, may well reflect things that Americans hoped were true. A society open to action and dependent on technology will tend, surely, to devalue the reflective inner life and, if the belief is strong enough, will contend that the inner life is mythical or, at least, not part of what any scientist should investigate. Canadians, perhaps, have been more skeptical about these things.

For whatever reason, the social sciences, as they are now understood, developed rather slowly in Canada. The result was that when the demand came to staff the new Social Science Departments, the Americans and Englishmen imported to start them off claimed that there were no trained Canadians.

The theoreticians produced by our older schools of political economy, the psychologists who came out of our joint Departments of Philosophy and Psychology, the social theorists who fought the separation of history and sociology may no longer be numerous. Where they exist, they too often find themselves strangers in their own house, parties to an enterprise devoted to some other end.

Does it matter? The public issue is simple. If it is important to maintain options on the North American continent, if no government is so trustworthy that we can afford to turn over a whole continent to it, if human nature is too rich to be compressed into one mold, then, indeed it does matter.

The heroes of our minor revolutions—Riel, Mackenzie, Papineau—all found it necessary to flee to the United States at various times. Americans, from fugitive slaves to opponents of the war in Vietnam, have found the national differences worth while.

Squeezing Canadians out of their own universities—if that metaphor is not too active for what goes on—does endanger the alternatives. Canadian students complain bitterly that courses in sociology are based on American books and American problems, and leave their own lives untouched. Canadian students in political philosophy find that theories which might make their environment intelligible are not discussed and then rejected; they are not discussed at all.

What is it like to grow up feeling that your country has produced no thinkers and no one capable of teaching you? (A former chairman of my department wrote an official memorandum in which he said: "There *is* no Canadian philosophy as such." He went on to say that there was indeed an American philosophy.)

Nationalism is potentially dangerous—though not more dangerous than cultural imperialism. If it is to be defended, it must be on the ground that it is consistent with the legitimate interests of all men. The Canadian cultural tradition, though, has harmed no one and many Americans have been grateful for its existence.

Then there are practical and personal issues. Finding oneself cut off from one's roots, forced to defend one's every thought, can, all too easily, crack one's mind. (In my case, it has been even queerer: I have been massively overloaded with graduate students—about half of them Americans—who want at least to share my attitudes toward philosophy. Defending their right to do what they want has become a major occupation.)

Then, Americans can freely enter Canada, whereas Canadians wishing to move to the United States are now subject to a quota; the queue for a visa has averaged twelve to fourteen months, and it is hard to get a job that far in advance.

Other countries don't show the Canadian tolerance toward aliens. The Institute of International Education

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noted in 1969 that only 2.5 per cent of academics in the United States were non-Americans. Ninety-seven per cent of those who teach in British universities are British.

No one in Canada would suggest proportions like that. Demands for a quota have been growing, but the favorite demand is that two-thirds of the members of each department should be Canadian. Like many other Canadians who feel strongly about the issue, I remain suspicious of quotas. My interest is in seeing that some of the Canadian traditions are adequately maintained and I am disinclined to attach numbers or count birth certificates. Others think that people like me are unrealistic and perhaps we are.

I suspect that the real solution would be to make sure that, sometimes at least, Canadians decide who is to teach in Canada. In Ontario, with fourteen publicly supported universities inching their way reluctantly toward a University of Ontario, the solution would be simple: name a committee of Canadian scholars in each field and give them the power to make a significant proportion of the appointments in that field for the whole province (and power to make all appointments until an agreed upon proportion is reached and until it includes a reasonable share of the full professors). The committee would be charged with seeing that departments had a reasonable number of Canadians and, much more, that Canadian ideas were fostered and not stamped out. It could move its appointees from campus to campus as need arose.

Departments could still do what they liked with the rest of the appointments, but at least sometimes Canadians would decide who was to teach in Canadian universities and Canadian ideas would become a specific concern. That is a small and perhaps conservative dream.

Meanwhile, I am off to Cleveland in hope rather than despair. I have always enjoyed being a foreigner in someone else's country and, anyhow, Americans at home, freed from the need to feel defensive in the face of a vaguely strange culture, are rather different from Americans living in enclaves in other people's countries. As one lone Canadian, I shall not, I trust, be tempted to bring a cultural wall with me. (Being abroad in bands would be bad for Canadians, too, if they got a chance at it.)

I may not "belong" in downtown Cleveland, but the American city is one of the places in which the future of civilization is apt to be decided. If we don't succeed there, none of us may belong anywhere. It is a good place to find out whether philosophers have anything to say to the young for whom the future too often has a desperate look. It is an honest place to stand, whatever one's nationality. □

THE QUIET POLLUTERS

SMOG OVER THE GREAT PLAINS

JACK WAUGH
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Sante Fe

Quietly, adroitly, meticulously, big electric power companies in the American West have made a six-year run around the environmentalists. Now, perhaps too late, the environmentalists are giving chase. In five days of hearings —from May 24 to May 28—the Senate Interior Committee's Subcommittee on Water and Power Resources came to the Colorado Plateau to decide what, if anything, could be done about it. It will be weeks, perhaps months, before the committee completes its investigations —it is to hold further hearings in Washington—and comes to any conclusions or takes any action. But the story of what happened is finally getting what it has never had—a thorough public airing.

By September 1964, conservationists in the West had gone complacently asleep. They had beaten back a network of hydroelectric plants which the public power industry had tried to build along the Colorado River in the 1950s and which would have backed water up fathoms deep into some of the West's most majestic canyons.

But even as conservationists sat back that September with arms folded in self-satisfaction, ten investor-owned public power companies met and formed an association called WEST (Western Energy Supply Transmission Associates). Under the guise of being the benevolent suppliers of a galloping demand for electric power, WEST members, without fanfare, started to draw contracts for a network of coal-fired plants on the Colorado Plateau.

By the time environmentalists realized what was happening, WEST had grown to twenty-four member companies and into one of the biggest electric-power combines in the country. Its members had either built, were building, or had on the drawing boards six of the largest fossil fuel power plants in the world, with the potential to turn the crisp air of the West into a major pollution problem.

Now, despite a national alert that has finally attracted the attention of the federal government, it appears too late to stop the plants. The best environmentalists can hope for is to dull the impact of the inevitable pollution.

WEST, not a company on its own, but an umbrella under which companies combine to build plants beyond the financial reach of any one of them, moved first into the Four Corners region where Utah, New Mexico, Arizona and Colorado meet. The Arizona Public Service Company, a WEST member, has maintained a 575,000 kilowatt capacity plant near Farmington on the New Mexico side since 1963. A phalanx of six companies, led by Southern California Edison, has now moved in, added two more units to the Farmington plant, and tripled its kilowatt output.

Another combine of six companies has built a 1.5

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Uluschak, Edmonton Journal (Canada)

million kilowatt giant in the Nevada desert outside Mohave. Now four more huge plants are either rising on the plateau or are on the drawing boards, with operational target dates of no later than 1977. One, the Navajo plant, a 2.3 million kilowatt facility, is now building outside Page, Ariz., on the banks of Lake Powell. Another big plant, called the San Juan, is projected for a site near Farmington; another is planned for outside Price, Utah. And the last and most massive of all—a facility with a 5 to 6 million kilowatt capacity—is projected for the Plains of Kaiparowits, a coal-rich plateau on the Utah side of Lake Powell. It will be the biggest coal-fired generating plant in the world, capable of producing enough power to run a city the size of New York.

The prodigal at Kaiparowits and its five companion plants will generate together 14 million kilowatts of electric power. With that, the pollution of the Western air will be massive, but the WEST master plan does not stop there. Other plants, scheduled for a post-Kaiparowits phase running through 1985, will bring the capacity for power generation on the Colorado Plateau to 36 million kilowatts—three times the power of the Tennessee Valley Authority (TVA) and seventeen times more than the Aswan Dam in Egypt.

Already the single 2.1 million kilowatt plant at Farmington, the first venture under the WEST umbrella, throws out as much particulate matter (fly ash and smoke) each day—250 tons—as New York (140 tons) and Los Angeles (110 tons) combined. The plume of smoke and ash drifts across more than 200 miles of Indian reservation. It was the only man-made landmark that the astronauts on the Apollo 8 flight could consistently see and photograph from cislunar space.

Because of the opposition that boiled up when this new generation of plants was discovered, the power companies are finally moving to clean up the fly ash. New Mexico has ordered the Arizona Public Service Company to make the stacks at Farmington 99.2 per cent pure by the end of 1971 or shut down. The APS is installing wet scrubbers, at a cost of $7 million, that will reduce the ash to 15 tons a day. But when all six of the goliaths of the desert are operating in the late 1970s, and even if they are all equipped with wet scrubbers, they will still belch 350 tons of fly ash a day into the air across the plateau.

If not forced to clean up, they will also put out 2,160 tons of sulfur oxides a day—more than Chicago (1,920 tons) or New York City (1,077 tons), and many times more than Los Angeles (225 tons). Los Angeles considers even its 225 tons, that low because of a strict enforcement code, intolerable. Los Angeles—and other cities follow a similar policy—no longer permits an electric-power plant to build in its urban interior. That is why suddenly the once big-sky West is getting them.

The power plants of the plateau by the end of the 1970s will also be dumping 850 tons of nitrogen oxides into the sky each day. Nitrogen oxide is a co-producer of the infamous Los Angeles-type photochemical smog, of which that city, with its millions of automobile exhausts, in 1968 never produced more than 950 tons a day.

By negotiating contracts largely with Indian tribal councils, both for the land on which to build the plants and for the rights to the coal which powers them, the electric companies attracted almost no attention until late 1969 and early 1970. One of the factors that makes the WEST combine so difficult to stop now is that the contracts the companies have drawn are scrupulously legal. They have been signed by elected Indian leaders, the remuneration has been carefully spelled out, and the rights of the companies meticulously delineated.

The contract signed with the Navajo and Hopi tribal councils for the rights to coal from Black Mesa, a coal-rich mountain deep within the reservation and long held sacred by the Indians, is typical. WEST members interested in Black Mesa coal made an arrangement with Peabody Coal Company, a Kennecott Copper Corporation subsidiary, to supply fuel for the Navajo plant at Page and for the Mohave plant in Nevada. Sixteen billion tons of raw coal lie in seams across the aspen and pine-dotted mesa, part on the Navajo reservation and part on the Hopi. Eight billion tons looked to Peabody to be economically mineable. The company had its eye on 14,000 of the richest acres. Mined at a rate of 400 acres a year for the next thirty-five years, it would be enough to supply the Navajo facility with the 8 million tons a year it would require and the 5 million the Mohave needed.

Peabody negotiated a contract with the Navajo and Hopi councils for 64,858 acres of the Mesa, the company agreeing to pay the Indians 25¢ on every ton mined. At that rate, the company would pay the tribes an average of $3 million a year or about $100 million over the thirty-five-year span that the mine would operate. For its part, Peabody would get $750 million from the power companies over the same period.

To sweeten the deal, the coal company said it would employ mostly Indians—as many as 300 (out of 120,000 Navajos and 5,000 Hopis) when the two plants were fully operational. Indians in the mine would earn $10,000 a year; the average Navajo family income is $3,000.

The tribal councils of both tribes liked the deal; the Department of the Interior smiled approval. But from the beginning, some Indians first frowned and then vigorously objected. Enormous cranes and shovels began biting into

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shoulders of the mesa, long considered essential to the harmony of Navajo life. Seventy-eight Indian families have been—or will be—forcibly transplanted from the land that has been theirs and their ancestors' for as long as any of them remember.

Roads are slicing across the mesa and giant flatbed trucks shatter the traditional quiet. The Hopis fear that the gulping slurry pipeline that carries coal 275 miles to the Mohave plant will deprive them of water that has sustained their farms and villages for a thousand years.

That is the biggest controversy. Indians and environmentalists insist that the strip mining that cuts across the arroyos of the mesa will block the traditional flow of water. They believe that the five wells that Peabody has sunk into the deep strata of the mesa will drain the water tables. Peabody will use 2,000 gallons of water an hour. The company, however, estimates that to be 1 per cent of the water in the mesa's sandstone formations. It does not think its operations will alter the flow of water, making the washes run dry as the Indians and the environmentalists fear. If it does, says the company, it will supply whatever water is lost and when the mining ends it will turn the five deep wells over to the Indians and put the mesa, replanted in aspen and pine, back the way it was before the mining started.

That is small solace to aroused Indians who see the threat as real and many of whom are angry with the tribal council for leasing away the land in the first place.

The power companies showed a near-total disinterest in developing any anti-pollution safeguards—until forced to do so. Not until New Mexico demanded it, did the Arizona Public Service Co. install wet scrubbers at Farmington. When the Salt River project in Phoenix was drawing plans for the WEST-inspired 2.3 million kilowatt installation at Page, little of its $309 million budget went to pollution abatement. Only after environmentalists demanded safeguards did the Salt designers add $90 million for pollution abatement.

For the past year and a half, environmentalists, led by the Central Clearing House in Santa Fe, have been mounting a sometimes limping attack on the unbridled growth of electric-power plants existing, building, and projected. They have found it hard, until the last six months, to get adequate publicity and almost impossible to get the federal ear. Finally they are being heard.

The Senate Interior Subcommittee hearings in late May, convened at the insistence of New Mexico's Sen. Clinton P. Anderson, moved through five states, stopping at Farmington, Albuquerque, N. Mex., Las Vegas, Nev., Salt Lake City, Utah, Durango, Colo., and Page, Ariz.

Even as it turned to hear evidence and testimony and to see for itself, the Senate Interior Subcommittee knew little of the problem and still less precisely what to do about it. Environmentalists, joined by Gov. Bruce King and Sen. Joseph Montoya of New Mexico, clamored for an immediate moratorium on new plants until the ecological impact can be thoroughly studied and anti-pollution measures and safeguards for the Indians assured.

Even if the Senators didn't immediately respond, Interior Secretary Morton, backed by the President's Council on Environmental Quality, did. As the Senators toured, Secretary Morton ordered a moratorium on new plants until an Interior task force named by him can make a report. That will take about a year. The moratorium will not stop plants now in progress. Indeed, it will halt only one—the one at Kaiparowits. But for the environmentalists, outmaneuvered for so long, it is at least a mini-victory. □

ANALYSIS OF A DREAM TANK

WILLIAM OVEREND
Mr. Overend is a writer for CBS News.

Ever since 1963, the Army has been developing a new tank. It was called a "dream tank" at first, and, in a sense not intended, it has proved to be one. Production, which was to have started more than a year ago, is running at least five years behind schedule. The original price was $300,000 per tank; today the Army's own estimates are more than twice that amount, and knowledgeable critics say it's closer to $850,000. Back in 1963, there was talk that the total program would amount to $3 billion or so. Today, with cost overruns of 525 per cent in research alone, the estimates have passed $8 billion.

For some, that might be enough to raise questions about the tank, but it's just the beginning. The project began as a joint effort, with West Germany, Washington and Bonn agreeing to split costs fifty-fifty. The German interest was natural enough, since the tank would be used in Germany if it were ever used at all. Its purpose is to fend off Warsaw Pact aggressors, should they attempt an invasion of Western Europe. Today that possibility seems considerably more remote than it did in 1963. Meanwhile, the tank project has become a one-country show. Germany, unhappy with those rising costs, dropped out a year ago, giving critics of the tank perhaps the strongest argument of all: why should the United States be building a "supertank" against the unlikely chance that the Warsaw hordes will come rampaging into Western Europe, when even the country most directly involved has lost interest? The Germans, by the way, who are not amateurs in the tank-building trade, have concentrated on building their own, the Leopard tank, since terminating the partnership.

Critics of Pentagon spending learned long ago that such arguments don't always carry the day when it has reached the crucial stages of deciding whether or not to continue a specific weapons system proposal. Congress usually votes to pay the price and give the Pentagon its request. That, however, is emphatically not the case with the Army's tank. Already this year, the House Armed Services Committee, chaired by Rep. Edward Hébert, who is one of the Army's best friends in Congress, has voted to slash

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the fiscal 1972 budget request of $87 million for continued research and development of the tank by nearly $60 million, leaving an almost insulting $27.2 million. More than any number of logical arguments against it, Hébert's move indicates that the Army tank is in trouble. Before fall, there could be a move to kill it completely.

The Army is so concerned about all this that it won't discuss the tank with journalists, and even Congressional aides have been told there will be no comment to questions about the project. On a recent visit to the Pentagon, the best this writer got was a March 5, 1970 handout announcing that the original name for the tank, the Main Battle Tank-70, had been changed from MBT-70 to MBT-70/XM803; and that, in a year or so, the MBT-70 prefix would be dropped, and the tank would come to be known as the XM803.

(Apart from all the other questions about the tank, this XM803 bit may be the real hangup for the Pentagon. Had the tank gone into production by now, the Army could have given it a popular name. Usually the Army names its tanks after its generals—Sherman, Patton, Sheridan. Thus the XM803 could have become the Eisenhower Tank. And it would have been a lot more difficult for Congress to have voted against Ike than to turn thumbs down on the XM803.)

For some time now, the main Senate critic of the Army's tank has been Thomas Eagleton (D., Mo.). As far back as December 15, 1969, he was denouncing it on the Senate floor, pointing out that even Defense Secretary Laird and Deputy Defense Secretary Packard were beginning to have reservations about the tank. In fact, after a survey by the General Accounting Office uncovered the astonishing cost overruns for research and development, Packard ordered a complete review of the program, and agreed, even before conclusion of that review, to withhold $10 million of the $50 million that had been authorized for continued R&D. Just to make it official, Senator Eagleton introduced an amendment striking the $10 million, and the Senate passed it; it was the only serious floor defeat for the Pentagon in 1969.

The strategy was different, however, when it came time to assault the Pentagon budget requests for fiscal 1971. That was the year of Senator Proxmire's first attempt at a Senate-imposed ceiling on defense spending. For tactical purposes, Senator Eagleton deferred any efforts at trimming the tank program, and thus the Army got every penny of its $77 million request for that year. Because Senator Proxmire intends to fight for an overall ceiling again this year, it had been Senator Eagleton's intention again to avoid another direct floor fight over the tank, the idea being that it is better to concentrate on one big fight than on a lot of little ones. However, it wouldn't be surprising if the cuts already made by the House Armed Services Committee change that strategy. No final decision has yet been made, but Senator Eagleton is reported to be thinking about a move to cut all funds for the tank.

Because the Army refuses to talk about the tank, it is the more difficult to find anything good to say about it. Nonetheless, certain things can be said. It is the best tank anybody has ever built anywhere at any time. If you like tanks, this one's for you. The Army's main tank today is the M-60 A1. Although it costs only $220,000 a unit, a fourth that of the new tank, it is regarded as being as good as or better than any other tank in the world. But it's not in the same league with the XM803, except, perhaps, in the matter of crew comfort. (Senator Eagleton, who has popped in and out of both tanks, says the XM803 is much more uncomfortable.) The new main battle tank is faster than the present tank by a third, with a top speed of 40 miles per hour. It has stronger armor, infrared and starlight viewing for night fighting, a body that can be raised as much as 18 inches for better mobility and traction in mud and snow, the most accurate cannon ever installed in a tank, the capability of firing the Shillelagh anti-tank missile—all features that prompted *The New York Times* to describe it in 1967 as "the fastest, deadliest and most advanced armored combat vehicle ever devised." (The day after that *Times* description, on October 9, 1967, West Germany, which had not yet abandoned the tank, unveiled a prototype of what then was still called the MBT. After thirty minutes or so of a maneuverability test, smoke started pouring out of the armor plate, the three-man crew jumped for safety, and fire extinguishers had to be called into play.)

Nobody questions the tank's capabilities. The real questions are whether it would ever be used and, if it's really so essential, why the Germans, who know all about tanks and have an economy that seems just as strong as ours, can't or won't build it themselves. Nobody can say for sure, of course, that Western Europe won't go up in flames tomorrow morning. But nobody expects it, and least of all Willy Brandt, who has spent most of the past two years running around among the Warsaw Pact nations signing friendship treaties with every potential enemy in sight.

A year and a half ago, even before Brandt's Eastern romances began to bring results, another of the tank's critics, Senator Hatfield, made the point that much had changed since the early blueprint days. "This started as a jonit venture with the Federal Republic of Germany in August of 1963. Konrad Adenauer headed the West German Government, the cold war had been intensified by the Berlin wall, and John F. Kennedy had completed his dramatic visit to West Berlin. Above all, relations between the East and West, and between Moscow and Bonn, were frigid. Now we are moving into a new diplomatic era. Willy Brandt has opened up innovative foreign policy options in Europe. . . . All of Europe is in a period of diplomatic flexibility that may possibly mark the cold war's last days on that continent."

If anything, what Hatfield said then is even truer today. Germany no longer has any interest in the MBT-70, or the XM803, and probably wouldn't be more impressed if the Army did prematurely dub it the Eisenhower. The country that gave us Guderian and Rommel simply has decided it's capable of handling its own tank defenses. There is even some indication that the Defense Department itself isn't crazy about the Army tank, that it's one of those cases where a branch of the military pushes so hard for something that it is agreed to at upper levels simply to shut everybody up. Unfortunately for the Army, Congress is making it clear that it is not so eager to please. As a result, General Eisenhower may have to be content with his silver dollar and his stamp. □

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BOOKS & THE ARTS

Broils and Civil Commotions

THE PROSPECTS FOR REVOLUTION: A Study of Riots, Civil Disobedience, and Insurrection in Contemporary America. *By Ralph W. Conant. Harper's Magazine Press. 290 pp. $8.95.*

CIVIL DISOBEDIENCE: Conscience, Tactics, and the Law. *By Carl Cohen. Columbia University Press. 222 pp. $7.50. Paper $2.95.*

THE MORALITY OF CIVIL DISOBEDIENCE. *By Robert T. Hall. Harper & Row. 200 pp. $9.50. Paper $1.95.*

EXPLORING NONVIOLENT ALTERNATIVES. *By Gene Sharp. Porter Sargent. 161 pp. $3.95. Paper $2.25.*

THE OBLIGATION TO DISOBEY: Conscience and the Law. *By Mulford Q. Sibley. Council on Religious and International Affairs. 119 pp. Paper $1.75.*

HUGO ADAM BEDAU
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Civil disobedience, as a topic of serious public concern, rose to a peak about three years ago in the Fortas-Zinn debate. A cautionary "liberal" position on illegal protest was taken by Abe Fortas, Lyndon Johnson's confidant and a Supreme Court Justice, in his essay, "Concerning Dissent and Civil Disobedience." A few months later, Howard Zinn, SNCC organizer and Vietnam war protester, replied with an impassioned radical counterblast. For those browsing the paperback bookstalls, never had the issue been so well joined as in these two polemics.

Since that time, events and the prevailing mood, thanks in part to the stewardship of the Nixon Administration, have steadily become more alarming. Since 1968, a flood of intolerant, disorderly, uncivil, violent mass disobedience has been met head-on with police riots, mass arrests, conspiracy charges and fulminations from the Agnews and Mitchells. Today, civil disobedience seems mainly the preoccupation once again of the little old ladies in tennis shoes. The vanguard struggling against racism and the war has largely abandoned it for other tactics. The five volumes under review here give us another opportunity to reconsider the merits of civil disobedience and nonviolence as measures designed to right social wrongs without plunging into violence or revolution.

Civil disobedience continues to claim our attention because it appeals to our liberal and moralistic pretensions. It is, after all, reassuring to have David McReynolds of the War Resisters League say, as he did recently in New York, that nonviolence is as American as apple pie. Decent people do not want to hurt others or be hurt by them, even in the urgent pursuit of peace abroad and social justice at home. Civil disobedience as the upper bound of permissible illegal protest seems likely to minimize those dangers. It is reassuring as well because most of us secretly imagine that, unlike riots and violent confrontations, the politics of nonviolence will allow us to preserve our customary composure in the face of chronic warfare and injustice. I wish I were certain that those who give civil disobedience a favorable press do not do so in order to vindicate their lethargy. At any rate, the seductions of repose should not be underestimated.

Besides, much civil disobedience has come to be viewed, especially by lawyers of the Kennedy persuasion, as not really illegal conduct after all. Their argument has been that the disobedience of local ordinances and state statutes, as in the civil rights movement, was fully vindicated by federal law with which those local and state laws were inconsistent. Moreover, civil disobedience involves accepting the penalty and going to jail. Nonviolent, public, open and aboveboard (no "conspiracies" here, you may be assured), patient, often legal and always at worst "symbolic" in its illegality —civil disobedience was the darling of liberal politics in its protest phase during the past decade. It appealed to our latent Populism (the laws the people make they may in conscience break), our moralism (what better than an individual's own conscience to guide him?), and to our reformism (the civil disobedient really wants neither anarchy nor revolution, as his jail-going proves). Black and white, young and old, rich and poor, all together battling nonviolently with racism and the war machine.

That was the image. But the reality is that racism, war, poverty and militarism have proved to be not tameable so far by any act or campaign of legal protest, or illegal but nonviolent resistance. The turn toward nostalgia for the thirties, the vote for 18-year-olds, the politics of violence, protracted revolutionary struggle—in these positions the civil disobedients of yesterday are to be found.

I am glad to assure those persons subject to this mood that they have some things to learn (very different things, to be sure) from Ralph Conant and Gene Sharp. But for those whose interest in civil disobedience has not succumbed to disillusion, let me explain first what I think they can find of value in the new books by Carl Cohen, Robert Hall and Mulford Sibley.

The most conventional position is taken by Sibley, professor of political science at Minnesota. He alone brings to the topic the pacifism which has marked the popular notion of civil disobedience from the writings of Tolstoi a century ago down through Gandhi and Martin Luther King. Sibley's little essay is nicely written and he gives a thorough airing to the issues raised by unjust commands and laws when seen from a semi-religious perspective.

If I have a complaint to make against Sibley's position, it is against its ultimate foundation. To say, as he does, "My only absolute obligation is to righteousness," is really to rest the case for civil disobedience on a piety. It is of little use in going beyond moral witness toward effective political action to know that God is on our side. One must respect the moral earnestness Sibley expresses; it is a precise echo of Thoreau's doctrine that "The only obligation which I have a right to assume, is to do at any time what I think is right." In his book, Sibley does help us (in ways Thoreau did not) to see some of the bench marks, if not the criteria, of "true righteousness." But the privatism, the purely exculpatory quality of the civil disobedience Sibley is required to defend prevents him (exactly as it did such other spiritual rebels as Thoreau and Camus) from giving us a politically sophisticated perspective on illegal protest. Gandhi, for example, despite all the moralism of his doctrine of *Satyagraha*, showed a better awareness of the politics of civil disobedience than does Sibley. Some have said that a similar sophistication was developing, just before he was slain, in Martin Luther King.

The books by Carl Cohen and Robert

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Hall may not give us that politically sophisticated interpretation of civil disobedience that we really need. But they do provide us with the first extended discussions of the nature and justification of illegal protest. Philosophers especially will welcome both volumes because they exhibit the kind of preoccupation with the subject which appeals most to them. But activists, lawyers and political sociologists have much to learn from Cohen and Hall, too. The reader who comes to these volumes with no more than the most recent *New York Times* editorial or ACLU statement to guide him will go away properly grateful for the clear organization, sustained analysis and argument, and wealth of vivid examples in each book. Carl Cohen, whose views on civil disobedience have become familiar to readers of *The Nation*, is especially to be congratulated for his idea of citing a score of brief case histories of civil disobedience throughout his volume as contemporary illustrations of the issues under scrutiny. (The format he devised for the purpose, his example printed in italics at the top of the page and his commentary in roman at the bottom, is a vast improvement on either footnotes or appendices, and will doubtless have its imitators.)

By now, thanks to several litmus-like tests, any theory of civil disobedience can easily be characterized by its essential features. All we need to know is (*a*) what position it takes toward violence; (*b*) whether it tolerates indirect civil disobedience, the breaking of one law not in itself objectionable (e.g., trespassing) to protest another (e.g., the draft); and (*c*) how it distinguishes civil disobedience from rebellion, revolution, anarchy and ordinary crime.

Both Hall and Cohen take the same position on all these issues. Civil disobedience, they are ready to allow (unlike Fortas or Sibley, but like Zinn) may be violent. It can also be indirect (like Sibley and Zinn, but unlike Fortas) without necessarily being unjustified. Their reason is, I think, a good one. The purpose of the disobedience, say, to publicize some hidden and inaccessible injustice (e.g., a hiring practice or the absence of adequate health care) leaves no alternative. Fundamental respect for the existing legal system and the attempt to provide a rational, moral justification keep this kind of illegal conduct distinct from anarchy, rebellion and the rest.

The difference between Cohen's position and Hall's can best be seen by the way they explain the problem of justification and the kinds of conclusions they reach in actual cases. Cohen repudiates so-called "higher law" modes of justification, and in effect backs into a utilitarianism as the only other sort of general justification worth taking seriously. After carefully criticizing a battery of possible utilitarian objections to any possible act of civil disobedience, he concludes that "none succeeds in showing that civil disobedience can never be justified."

But on the same page he also says that nowhere in the book does he offer "a defense, even of an ideal case," of illegal protest. For all of Cohen's apparent sympathy with civil disobedience, then, he chooses deliberately to suspend judgment, and the reader is left to ponder for himself the author's conclusions about his illustrative cases. Of course, Cohen is right when he says that "philosophy . . . cannot give particular judgments." But philosophers can, and Cohen's silence will give some readers the impression of faintheartedness. I think it fair to say that Cohen would have written a more absorbing account of the right-minded but faulty attacks on civil disobedience in general if he had taken at least one actual case in recent history and shown us how it answers *all* the objections, fair or foul, he and others can bring against it.

Robert Hall, by contrast, is somewhat more subtle in working out the logic of moral justification and also more forthright in exhibiting it at work. First, he shows how not only utilitarian and "higher law" theories but others, such as the contractarian, religious and Kantian, can be given their due weight as moral grounds on which disobedience is justifiable (or unjustifiable). The central question Hall would have us answer he puts this way: "How can the agent acknowledge his continued obligations to obey the law and to respect others despite his 'illegal act' of disobedience?" The philosophical core of Hall's book lies in his identification of the several "conditions" of moral justification (e.g., the moral reasons favoring disobedience outweigh those favoring obedience) and then the "characteristics" of acts which we should look for because they will tell us whether or not the prior conditions have been satisfied (e.g., no violence was used where nonviolent alternatives still existed).

As an illustration of how his theory (or "framework," as he prefers to call it) actually works, Hall discusses four recent cases of civil disobedience involving illegal abortion, war tax resistance, the 1963 Birmingham march in violation of a court injunction, and the 1969 assault on the Dow Chemical offices in Washington, D.C. In each case, Hall not only helps convince the reader that his "framework" really does work but also that it is possible for an intelligent citizen to make a rational assessment of the justifiability of some actual cases of civil disobedience.

I have, I confess, difficulties with some of the central notions both Hall and Cohen agree upon. It is unsatisfactory, for instance, to think of the lynching of blacks by the Ku Klux Klan as civil disobedience, just because the Klan members thought they had a moral justification for their hideous crimes. Yet this is a consequence of Hall's position, if not of Cohen's. No doubt, as both these theorists point out, some have been wrongly tempted to define civil disobedience as nonviolent in order to steal a march toward justifying all such acts no matter what else may be true of them. Yet the Cohen-Hall position simply does not take adequate account of the fact that the paradigm cases of civil disobedience have always been nonviolent illegal acts of protest, rather than violent acts. I do not think this is either accidental or a bit of tacit special pleading.

Ralph Conant, director of the Institute for Urban Studies and president of the Southwest Center for Urban Research in Houston, devotes only a handful of pages in *The Prospects for Revolution* to civil disobedience and nonviolence. Yet in a way he is the most militant of the authors under review. He alone says, "Civil protest in all its forms, both violent and nonviolent, is an indispensable corrective ingredient in a democratic polity."

Moreover, I think he is right when, a few pages later, he adds: "We habitually deceive ourselves about the role and acceptability of violent action in our political life." By now, of course, thanks to the dozen volumes from the National Commission on the Causes and Prevention of Violence, Conant's insight is not exactly news. But it is still in sharp contrast to the uneasiness in the face of violence which shows through the pages of the books by Cohen, Hall and Sibley. I say this not to impute to them any inability to face the facts but rather to make clear the shift of preoccupation and purpose which prevails in Conant's book.

Conant is vastly more interested in explaining what he sees in current social movements and mass protest than he is in setting out the conceptual framework in terms of which that protest is to be justified. On that sort of issue, he can be blunt and even trite, as when he says, "Should the dissidents succeed in establishing the rightness of their cause . . . their use of violence may be vindicated *post factum*. Should their objectives be revolutionary (and they fail), the violence used against them is vindicated in the eyes of the authorities." John Locke,

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of course, with his notion of the revolutionary "appeal to heaven," said it first and said it better. By comparison to this, both Hall and Cohen, even Sibley, are masters of subtle analysis. But, as I said, this sort of commonplace in Conant's book is really only a symptom of his shift in focus, a shift which is certainly legitimate and which may have more to teach us than the almost wholly abstract results common to our theorists of civil disobedience.

Conant's chief concern, after having traced out the scale of ascending severity in protest, from civil disobedience through rioting and insurrection to revolution, is to provide a series of sociological models for each. This, with appropriate partial interpretations of actual events during the past decade in this country, he does with clarity and assurance. To convey views on all these subjects would take us too far afield. But on one topic, revolution, I must demur. Conant is in agreement with the vast majority of current observers when he writes, at the end of his book, that "the probability of contemporary protest developing into large-scale revolutionary activism is not great." But his conception of what a justified revolution would be shows that he is unacquainted with or deliberately indifferent to Marxist theory, even though it is that theory which has perhaps the strongest claim on our attention.

When Conant observes that "revolution is justified in the re-establishing of the social contract under which the polity originally came together, provided, of course, that contract was based on principles of justice and freedom," we recognize his characteristically American sentiments. But for those who believe, as some do, in the revolutionary role of the new proletariat, and that the revolution needed in our post-industrialist society must occur along Marxist lines, Conant's appeal to contractarian models and liberal ideals of justice and freedom will appear to be quaint where it is not pathetic.

As for those few whose faith in nonviolence leads them, as it has David Dellinger, for instance, to speak of revolutionary nonviolence, they will not find any encouragement here. In Conant's view, revolution is "indistinguishable from insurrection," and insurrection only develops out of the failure of "nonviolent protest." So much for what Thoreau called "peaceable revolution."

Gene Sharp, one of the country's few serious theorists of nonviolence who is steeped in its history and politics, has offered us in his *Exploring Nonviolent Alternatives* a uniquely valuable compendium of ideas, examples, research topics, readings and other resources to expand our horizons as we think about possible applications of nonviolence in contemporary domestic and international politics. In a warm but faintly skeptical introduction to Sharp's book, David Riesman rightly, I think, indicates the difficulties for anyone who seriously hopes that widespread and intense rivalries can be resolved by wholly nonviolent means.

"The subtle dialectic," Riesman notes, "among Americans between team spirit and anarchic impulse seems to me to make the discipline of nonviolent defense extremely difficult." The value of Sharp's little book is precisely its catalogue, impressive in its scope and variety, of nonviolent victories scored not only in America but throughout the world. True, in some cases, the evidence Sharp assembles (such as the Vorkuta prisoners' strike in the early 1950s) tends to reinforce our reservations about the adequacy of nonviolent tactics. But any general conclusion of this sort would be premature.

After commenting upon eighty-five cases of nonviolent action during the past century, Sharp laments the impossibility of drawing up any intelligible balance sheet of successes and failures, much less of seriously advancing any explanatory or predictive hypotheses for the future. "Academic neglect of the subject," Sharp warns, prevents this and explains our ignorance on the decisive details. That very ignorance, of course, will continue to excuse our skepticism until research institutes in social history and conflict resolution begin to devote their energies to filling in the precise variables of the schematic outline Sharp has provided. Otherwise, our ignorance will continue to repay us with ever more bitter dividends. During World War II, we boasted that this nation was "the arsenal of democracy." Now, a generation later, it is demoralizing to realize that our official R&D efforts in the interval have produced little or no expansion in our nonviolent weaponry. Yet, to some extent, all these books contribute to that stock by the way in which they make rational for a wider audience the techniques, criteria and theory of extralegal but nonviolent social change. □

Aren't We All Made of Flesh?

SAINT URBAIN'S HORSEMAN. *By Mordecai Richler. Alfred A. Knopf. 480 pp. $7.95.*

DONALD CAMERON
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"As certain homosexuals pander to others by telling the most vicious anti-queer jokes, so Jake, so Luke, shielded themselves from ridicule by anticipating with derisive tales of their own." Jake Hersh, Mordecai Richler's latest protagonist, is explaining why he has always run down his native Canada, but the remark strikes deep into Richler's own situation as a writer. Humor as a shield: the comic novelist gives nothing away, is open to no attack. And, finally, finds himself backed into a sterile cul-de-sac.

It had seemed to happen to Richler, whose work since *The Apprenticeship of Duddy Kravitz* (1959) has been spiky, unapproachable, almost inhuman. In *Saint Urbain's Horseman* he breaks out magnificently. The comedy, still brilliant, is illuminated by compassion. Jake knows he is obsessive, grotesque, comic; he insists he is also affectionate, decent, and capable of nobility. And indeed he is.

This dual vision encompasses every character in the book. Everyone gets his day in court. Harry Stein, Jake's nemesis, a lethal little groin-kicker of a man, has hair spurting out of his ears "from the dampness, probably, like the shoots that grow in potatoes if they are abandoned under the sink." Yet Harry's viciousness is rooted in deprivation, and on several occasions he speaks movingly for life's losers. Similarly, Jake's Uncle Abe, a solid bourgeois leader of Montreal's Jewish community and thus an automatic target, makes an eloquent defense of his square way of life. "This kid says when they have a rock concert, thousands of them from miles around, there's no rough stuff. I answered him, listen here, *shmock*, if I go to an affair at the synagogue, or a Mozart concert, we don't pour out of the halls with clubs, splitting heads. Why should you be amazed that your concerts don't end in a riot? Their bodies are beautiful, he tells me. When they swim nude, the sun shines out of their asses. Listen here, you little prick, you think I was born fat and bald, with a heart condition. Wasn't I young once, and aren't you going to grow old too? Aren't we all made of flesh?"

Well, we are, and at last Richler's characters are admitting that they are

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only bits of flesh looking for love in a mad, mad world. The comedy is poised on the edge of terror. In *Saint Urbain's Horseman,* Richler's former satiric exaggeration becomes not even an overstatement but a powerfully disturbing interpretation of reality. Why is Jake, thin and twentyish, barred from the United States? "We are not authorized to divulge information on which we pass exclusion." Why is Jake, prosperous and fortyish, being investigated by British Inland Revenue? "The Commissioners of Inland Revenue never specify the grounds for re-assessment." Can Jake see a CF-104 fighter at the Canadian base in Germany? "That's classified." In Munich, already obsessed by the gas ovens, Jake sees a sign: DACHAU. Bus Leaves Every Saturday at 1400. VISIT THE CASTLE AND THE CREMATORIUM. When in hell, Jake concludes, see the sights. During the Six Day War, a newspaper headline announces that Germany will send Israel 20,000 gas masks. "Nowadays," Jake shouts, "everybody is a black humorist."

The constant reference to the Nazi death camps, the subtle insistence that the world is a vast asylum, place Richler's grotesque characters in a new light. In so savage a world, paranoia becomes almost common sense. "Remember," Jake tells himself, "immediately before Oswald took aim, John Kennedy seemed the most blessed of princes. Malcolm X had further speaking engagements. Even Albert Camus must have had plans for when he reached Paris."

For Jake and his cousin Joey—the briefly glimpsed Horseman who comes to dominate Jake's imagination—the death camps are an indictment not of man but of God. "The Lord is our God," says Joey, "and the Lord is One. But do you know why, rabbi? It is because our Lord has such a tapeworm inside him, such a prodigious appetite, that he can chew up six million Jews in one meal. So, the Lord our God is One, because Two we couldn't afford." And Jake echoes: "If God weren't dead, it would be necessary to hang Him."

The Jewish experience becomes a metaphor for the human situation, a situation man is loath to face. The importance of the ambiguous, shadowy Horseman seems to be his compulsion to confront reality, his insistence that a man's response to the inevitable humiliation and violence must not be fear, but a dignified assertion of worth and a willingness to resist, however meaningless the fight may finally prove. In the end, everyone loses: we are all made of flesh. Dignity and courage are the best we can achieve. Joey is the Golem, Jake decides. "The Golem is a body without a soul. He was made out of clay by Rabbi Judah Ben Bezalel in the sixteenth century to defend the Jews of Prague from a pogrom and, to my mind, still wanders the world, turning up wherever a defender is most needed." Like the Star Maker in *Cocksure*, or Dingleman in *Duddy Kravitz*, Joey is a private myth, a figure of mysterious power and dignity who obscurely challenges Richler's only-too-human hero.

But is Joey the Golem, or only a reasonably unscrupulous street arab from Montreal, a gigolo who defrauds women in countries across the world? Jake tries desperately to find him, feeling that somehow the Horseman has answers for him, but Joey is reported dead in South America—possibly hunting down former death-camp commandant Josef Mengele, possibly just smuggling cigarettes. And Jake, having passed from being Joey's advocate to become his acolyte, feels he has now somehow become the Horseman himself.

If we are to take this metamorphosis at all literally, it doesn't work; there is no way we can imagine Jake Hersh on a charger, hunting down Nazis in South America. Taken as representing truth and courage, however, the image *does* work. For the vandals *have* come for Jake, in the form of a sordid sex trial, and his tender little shelter of home and family has not collapsed. Jake considers the trial, brought on by the accountant Harry Stein, as his "accounting" for his own private happiness; it is initiated by a German *au pair* girl whose response to the question, "Did you know Hersh was Jewish?" is simply, "It's a drag. Who cares?" (That *Saint Urbain's Horseman* is full of complex ironies, richly textured, beautifully wrought, is one of its *less* important qualities.) Jake survives the trial, endures its aftermath, and grows.

Comic and tormented though he is, Jake repeatedly forces us to recognize him as a man like us, in a context like our own. Calling his son back for a moment, he is unable to speak:

> What do you say to him? I never got to know my father and now it's too late. Or, look here, starting next week I may be a boarder at Dartmoor for a while. Until I get home, walk tall.
>
> "I enjoy you. I like taking you places with me. You've got style. Now hurry or you'll be late."

Exactly. Exactly.

All the same, the old wicked satirist in Richler has by no means disappeared. If anything, he's more incisive than ever. Herky, Jake's brother-in-law, is in the toilet business; he thinks, breathes and sleeps toilets. Coming to London delighted with the bidets of Rome, the sewers of Paris, he doesn't want a pub crawl; instead he wants to sample the city's lavs. The tour culminates at Harrod's, where an ecstatic Herky ("This is quality, Yankel. This I call class") whips out his camera for a few snaps of this most phenomenal of johns, and the alarmed clients call the store detectives.

Again, Jake's ideal lawyer would be "unaggressively handsome, after the fashion of the British upper classes, that is to say, somewhat wanting, like an underdeveloped photograph. Without salt. He would commute, Jake imagined, from a detached in an unspoilt village in Surrey (nr. Guildford, 40 min. Waterloo) where on weekends he tended to the rose bushes and fought off encroaching crab grass with his toothy wife. (If it isn't too much to hope for, Jake thought, fighting down

POEM

I dreamed I caught an owl in an old coat
and it was my own heart.

Hunter Hoo Hoo Screech Skyrider Black

It dropped out of the dark
under the twigs of trees
into the underbrush at our knees
billows of invisible black raspberries

I've caught an owl in the brambles under my dreamcoat
My arms are holding down a field of grey cloth
heaving and fluttering wings pounding trying to break out
to escape

Heart, when I wake
you'll never be the same again
I won't be able to keep you inside my ribs

Robert Nichols

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the tears, we'll swop cuttings, my *goy* and I.) *England worries him.* Raised on the King James version, lemon squash, *Tom Brown's Schooldays*, hamsters from Harrod's pet shop, daddy's Ceylon tea shares, kaffirs, debentures, chocolate digestives and duty, he would find today's swingers perplexing." Zip. Edward Ormsby-Fletcher, formulated forever.

Reading *Saint Urbain's Horseman* is an exhilarating experience. Richler is at the top of his powers; he seems almost incapable of making a wrong move. A master craftsman, he has important things to say, and he is not embarrassed simply to say them without being defensively modish and clever. In this, the first —but, God willing, *only* the first—of his mature novels, the *enfant terrible* admits pain and speaks openly of love, even of married love. "I've never," exclaims Jake's mother, "said a word against Nancy."

To which Jake—witty, worldly, with-it Jake—replies, "And it's best that you never do, because I love her. And so long as she loves me, I cannot be entirely bad." □

Now That the Air Has Cleared

ROMANCE AND REALISM: A Study in English Bourgeois Literature. *By Christopher Caudwell. Edited with an introduction by Samuel Hynes. Princeton University Press. 144 pp. $6.*

CHARLES MOLESWORTH
Mr. Molesworth teaches English at Queens College. He has published poetry and criticism in Salmagundi, Poetry, University Review *and* Genre.

There is a sense in which the question of Marxist literary criticism—its assumptions, its values, its projection of future literary models—is a closed issue. The history of socialism in this country, and in particular the story of the Communist cause and the intellectuals' relation to it, has foreclosed the possibility of such a critic as Christopher Caudwell's assuming the status of, say, a Frank Kermode or a Susan Sontag. Critics such as Miss Sontag, and intellectuals generally, are aware to a greater or lesser extent of the possibilities of Marxist criticism, but only as a subdivision of a political theory or "social criticism" or the "sociology" of literary works. Marxist literary criticism can be a *part* of something, perhaps, but when put forward as *the* aesthetic theory or even as one of several creditable theories, it is tolerated with a wink and a shrug.

Perhaps it is time to put away the memories of the thirties, the good and especially the bad ones, and try to examine Marxist literary criticism with newly opened eyes. Caudwell's *Romance and Realism*, written in 1936 but only just published, would be an excellent place to start. In little more than 100 pages we are given an aesthetic theory, a history of English literature, and judgments on individual writers and literary schools, all coherently organized and articulated. The very comprehensiveness of this book, not so much in details, but in its consistent vision, argues its lasting value and importance. The book is a whole. Much of what it says is illuminating, most of it is useful, all of it is sensible. Of how many books of literary criticism can these things be said?

But of course we cannot really put aside the history of the thirties, or any other history for that matter, and it is most un-Marxist even to propose the attempt. Shades of social realism darken our perspectives, and memories of old feuds and desiccating terminologies shrivel our imagination. When Caudwell argues, in sketching the development of realism, that "this purely formal movement of thought had a material basis," academic liberals may shudder or sigh, but not in illumination or relief. When Caudwell goes on to argue that "the traditions of art are not language traditions, but social traditions," people will be a little more comfortable, given the increased sophistication of studies in "popular" literature, but in the end it won't make much difference to them; the New Criticism and Structuralism are comfortably hermetic and will continue to enjoy their favor.

For, using the "hard" sciences as a model, and such critics as Richards and Empson as guides, literary criticism in America has spent the last three decades trying to justify itself to itself. The English Departments of our universities, burdened with composition courses, yet enjoying large budgets and staffs as a result, were driven by a desire to remain meaningful, if only in an academic context. So they were obsessed with methodological questions, with, as a shrewd observer put it, "keeping the tools clean." Questions of value were ignored—either uncritically assumed or benightedly never raised. In such a historical context, Caudwell's book will never thrive. Especially because, though no one likes to admit it and though the cold war is over, it has the implicit approval of a "foreign ideology."

Caudwell is brilliant on Browning's dramatic monologues, where he shows why "to be a source of individuality" in bourgeois society is to be "a verbose hair-splitter." He is also capable of making distinctions among individual poets within a historical movement, though this is often thought to be impossible for a "collectivist" ideology like Marxism. The Rousseauistic Shelley, the Gothic-Elizabethan Keats, and the solitary Wordsworth emerge as three different responses to the same crisis, a sort of "second wave" of revolution in establishing the bourgeois order. The first wave occurs, of course, in the 17th century, which Caudwell also sorts out with discrimination. He draws distinctions between the novel and the lyric by giving new senses to the supposed "subjectivity" of the novel and the "objectivity" of the lyric, reversing that oldest of critical canards.

Most of these points, however, are made briefly. There is much more assertion than argument in this book. And since it will be difficult for many to accept the body of thought behind these utterances, it can hardly be expected that

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its individual insights will be valued, or that its total view will be taken seriously. More important, taken by itself, this book is in danger of being lost, but if taken with *Illusion and Reality, Studies in a Dying Culture* and *Further Studies,* it is part of a body of work as sophisticated and as rewarding as has been produced by any critic in this century, English or American.

As if to compound the problem there are those critics who claim that Caudwell is not a good Marxist, in fact is not a Marxist critic at all. And indeed his emphasis on the power of dreams, and the *social* power of dreams, is closer to a Freudian or Jungian position than a Marxist one. But whether Caudwell is a revisionist, a neo-Marxist or a petty bourgeois revolutionary cannot be laid down for all time in this review. In any case, Caudwell's personal sincerity is beyond question. His work in a British factory and his death at 30 in the Spanish Civil War, as well as his attempt to integrate the cultural implications of theoretical physics and of Wittgenstein's philosophy into his own theory of art (and life) are as nearly heroic as those of any literary figure of the period.

Samuel Hynes's introduction to this volume is brief and informative, and should the book ever have a paperback edition, it might well attract a wider audience for Caudwell's work. The cultural atmosphere I have described has begun to change in the universities, and perhaps reviewers in non-academic journals will also begin to be favorably impressed with the possibilities held out by such criticism as Caudwell's. But *Studies* and *Further Studies* are still out of print while meretricious literary criticism floods the presses.

As Stravinsky said of modern art, when everything is possible, nothing is possible. By treating every theory as just another theory, we lose our sense of what uses knowledge can and must be put to. Caudwell's work suggests that we must demand more than just another explanation of the same literary works, and that the knowledge that criticism provides must ultimately be translated into action. For that reason alone, it would be splendid if all of Caudwell's books were widely and freshly read. □

OVER HILLS INTO
BERKSHIRE PINES

Only here, where the trees
give to the wind its sound—
lush, flushed a deepening green,
that shades into the distance
into black, where all things are
hidden, giving birth, and coming
back: wings of blown pollen and
seed and oxygen-giving life.

David Kherdian

Where Our Writ Doesn't Run

THE NEW EXILES: American War Resisters in Canada. *By Roger Neville Williams. Liveright. 401 pp. $7.95.*

KINGSLEY WIDMER
Mr. Widmer, a veteran of infantry combat and of a prison sentence for Selective Service defiance, taught in a Canadian university several years ago. At present he is professor of comparative literature at San Diego State College.

To recognize how far the United States has gone down the road to a capriciously authoritarian society we have to consider the effects of conscription. Oddly, many reasonable Americans more often show concern for the distortions of the economy brought about by the "military-industrial complex" and the distortions of foreign policy caused by the Pentagon than they do for the more direct tyranny of the draft and the military. Pushing to the periphery of consciousness the effects of our "total institutions"—the Army, the prison, the hospital, the draft—is a crucial failure of humane imagination. Even without the permanent warfare economy and the Vietnam horrors, our society deserves condemnation for its vicious draft-military-prison complex, which now seems almost irremovable.

My grandfather fled to America from European conscription and militarism; my son may have to flee to Canada from American conscription and militarism. Roger Williams, a young draft resister now exiled in Canada, rightly points the moral that this country, "once the acceptor of the world's exiles, is now a major producer of them." How many? Nobody knows exactly the number of military deserters going abroad instead of to prison, or how many of the several hundred thousand Selective Service resisters have fled the country, but estimates for the last five years range from 50,000 to more than 100,000. This does not include the rising number of voluntary expatriates. The American northland, of course, provides the primary sanctuary. Williams' account of this combines thirteen taped interviews and a journalistic history of the Canadian "dodger and deserter" exiles.

The interviews give poignant accounts of young Americans who long remained uncertain, naive, hopeful, even after considerable brutalization by the military and the police. They had little information on possible alternatives, and hardly any tradition of political exile to fall back on. American institutions, the indoctrination they had received, and often their families, were against them. Liberal and radical peace groups were frequently pushing other strategies, and were not very helpful to these young men. American ideologies of adaptiveness, of getting by and getting along and not going too far, and of always putting self-aggrandizement first, made the deliberate refusal of what was false, unjust and vicious seem implausible. Still, the counter-culture provided a somewhat inchoate but nevertheless usable alternative sense of self; there is a deep rebelliousness and moral autonomy in the American ethos; and radical critiques of the war stimulated sympathetic help in both the United States and Canada. And American individualism, ingenuity and self-help, once redirected to resisting the military and adapting to exile, were fairly successful. The war and militarism are still with us. Yet, for all its inadequacies in the face of brutal and overwhelming forces, the resistance has more than a touch of an American success story.

As I meditate on Williams' reports, as well as think of the resisters I have known, I am struck by a sense that the American Indochina war both is and isn't the cause of the exile. Of course there has been considerable resistance to the Vietnamese War, both before and after military induction, with the more principled and the less clever going to prison, "underground" or abroad. Increasing numbers of young men have been morally sickened by what the United States does in Southeast Asia, and have responded to it by refusing, resisting or deserting. But the radicalizing effects, including voting with the feet, show a broader significance. The war seems in many cases to have impaired the ideological legitimacy of submission to our institutions. Men who have endured Vietnam, and even helped carry out our national style of atrocities there (one of Williams' exiled deserters admits to thirty-two civilian murders), have later rebelled against the system. Supposedly, "good wars" legitimized our vicious institutions in World War II, Korea, Latin America and the "peacetime" Army. But disenchantment with Vietnam has helped many young men discover

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now not only the patently exploitative nature of the draft system but the corruption, bigotry and brutality of the services themselves.

In their rage, many of the exiled resisters compare the American military to "that Nazi thing." It is easy for liberals to dispute the analogy, not least because our authoritarianism is less efficient, as well as better dressed in moral platitudes. Still, the comparison with fascism is pertinent to our actual experience with totalitarian American institutions. For that reason there is a growing realization that ending a terrible war, or limiting the aggrandizement of the military-industrial complex, or leaving behind our anti-Communist demonology, will not suffice. For example, significant American draft reforms are almost entirely unfeasible because of the nature of the military system they are designed to serve.

Roger Williams' account of American exiles in Canada, informative and moving though it is, raises a number of other problems. For example, he repeatedly criticizes war resisters who, like David Harris or Daniel Berrigan, accept going to prison. While many of the thousand or so resisters who have gone to civil and military prisons might agree with him (see the parallel accounts of the imprisoned in Willard Gaylin's *In the Service of Their Country*), it would be more accurate and more sensitive to regard prison and exile as complementary. Both groups of resisters show a surprising and touching moral patriotism. And both may make more sense than those who insist that true political virtue consists of fighting "the imperialistic monster" by joining the military in order to make revolution there, or going into underground militancy (Tom Hayden). While there can be no single style of radical rectitude, revolutionary gestures may not only misjudge the nature of the American military but be quite inappropriate to the experience and resources of 20-year-old middle-class Americans. Humane considerations are more important than political dogma. But that principle, of course, also applies to most of us, who comfortably oppose the war and militarism but manage to violate logic and withhold our sympathy when it comes to fighting the draft effectively, deserting the Army, or fleeing the country.

Most Americans, resisters included, still find it extremely difficult to reject America, even to suspend faith in it. The exiles end with painfully ambivalent views of the United States. I feel that Williams does not sufficiently examine this point, but then one of his concerns is the positive one of showing how the exiles become absorbed into Canadian society. On the whole, Canada has been surprisingly cordial, and the exiles find it not such an alien land. The resisters, like most American radicals, have been mostly middle class, educated and adaptable to current Canadian needs (though the recent economic recession has somewhat altered the situation). The required "landed immigrant" status has, since 1967, depended on a fairly objective, only mildly restrictive point system based on education and skills, which fits most of the resisters. Probably the anti-war flight has been to Canada's social, as well as moral, advantage.

In the long run, half against the desires of many exiles, their very absorption into Canadian society may result in their losing their original political motivation. Many, of course, yearn to return to America. Williams ends his book with a discussion of the possibilities of amnesty. I fear he is insufficiently skeptical. Official action which would allow tens of thousands of young Americans to return from abroad, or relieve them of their status as felons disqualified for the exercise of civil rights, seems unlikely. The Vietnamese War would not only have to be decisively finished, which present policy obviously opposes, but we would have to achieve a considerable change in official morals and manners. Amnesty is as alien to American officials as is resignation over a point of honor or principle. (Name the men who have resigned important positions because of their opposition to the Vietnamese War!) The historical examples of major American amnesties go back to Andrew Johnson in 1868, and to George Washington, but cannot be found in the past century. A punitive puritan sense of bureaucratic duty, an evangelical righteousness, have long been our style of rule. A full-scale amnesty for violators of both Selective Service and military law would provide one of the proper conclusions to the Vietnamese War. But will this society be capable of even the right symbolic gestures?

It would be most interesting to have richer accounts of the exiles. Is there a characteristic psychological pattern among them? Are they, as seems true of imprisoned resisters, mostly elder sons of strong fathers? What of their political views? Are Williams' thirteen, a majority of them leftists, representative? What of the ravages of exile? How well do the exiled American descendants of exiles fill such roles?

Still, *The New Exiles* is a revealing report of one of the most indicative American movements. The United States has truly come of age, outdoing Europe in military adventurism, in arbitrary institutions, and in driving its sons into exile. Without some considerable changes, of which abolition of conscription and amnesty for all resisters would be the minimum, we can expect to see more American exiles. In the meantime, these "dodgers and deserters" testify to our better traditions. □

The Business of Good Clean Fun

TOYS THAT DON'T CARE. *By Edward Swartz. Gambit. 289 pp. $6.95.*

JENNIFER CROSS
Miss Cross is the author of The Supermarket Trap *(Indiana University Press). The book developed from earlier articles published in* The Nation.

One day a San Francisco mother bought a plastic top called "Blo-Yr-Top" at a local drugstore, and took it home in her shopping bag. When her teen-age daughter started playing with it, the top exploded, cutting the girl's face and putting out her right eye. Although most of us are wearily familiar with ill-made toys, it is horrifying to learn that 700,000 children a year are hurt, disfigured, and sometimes killed by their playthings.

Edward Swartz, an attorney, became personally involved in this situation when he handled lawsuits initiated by the parents of some of these unfortunate children. A father himself, he began looking through his preschoolers' toy box, then inspected toyshops, department stores and the toy trade's annual fairs. What he found distressed him sufficiently to impel him to appear before the National Commission on Product Safety in December 1968. Thereafter, he wrote this book, to motivate parents to clamor for safety legislation.

Toys That Don't Care is not a work of literature; Mr. Swartz's style is somewhat bald. But his message is nonetheless important. He describes many toys which more properly belong on the battlefield than in the toy box—darts that blind, caps that explode, BB guns that maim, electrical gadgets that shock and burn, fabrics that sear like napalm when ignited.

Many toys are dangerous because their management requires more skill and experience than youngsters can be expected to have. Others, particularly electrical

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toys, come with inadequate operating instructions, and few warnings of shock and heat hazards—like plastic casting sets, sold as toys for 5-to-8-year-olds, which reach internal temperatures of up to 660° F. Some are obscene: monsters, plastic eyeballs, and mock hypodermic needles, complete with buttons reading "Hippy-Sippy says *I'll try anything.*" The greatest number are badly designed and sloppily made, dangerous in the hands of ingenious kids who use and abuse their toys in unpredictable ways.

Why are manufacturers permitted to market lethal toys and get away with it? For the same reasons that we get autos that crumple in parking-lot crashes. Indeed, there are many parallels between the auto and toy industries (though Mr. Swartz errs when he attempts to compare their sales volume; toy sales are $2.6 billion, and car sales are $85 billion a year). Both industries produce gimcrack wares. Both are weak at self-regulation but bitterly opposed to tough federal safety standards. And both have the gall to blame the public for accidents: Detroit's scapegoat is the bad driver, while toy manufacturers say "kids will be kids."

Toy makers spend far too little money on designing and testing good quality, childproof toys, and neither their trade associations nor the federal government is about to force them to do so. Safety standards issued by the Toy Manufacturers of America are weak, and firms that decide not to comply with them simply leave the club. Federal laws—the Flammable Fabrics, Hazardous Substances, and the Child Protection and Toy Safety Acts—are inadequate and poorly enforced.

As a result, it is almost impossible to prevent dangerous toys from reaching the market or to recall them from circulation. Stores rarely exercise a veto, particularly on toys that are heavily advertised on television. Parents are hard-pressed to sort the good from the bad, and get precious little help from organizations that are supposed to test such products. Any given toy is likely to be mummified in plastic, and full of moving parts or electrical devices. Children, who buy one-third of all toys sold, having often been persuaded by television ads into imagining that they need them, are not yet sophisticated enough to be wary shoppers. Besides, who could possibly not trust Captain Kangaroo or the nice people in "Romper Room"?

As a final, gothic touch, it often happens that when children have been injured by toys, and suits are brought against the manufacturers or stores, no compensation is awarded—thanks to a range of legal stratagems to which Mr. Swartz devotes one somewhat technical chapter. Even the child injured in the "Blo-Yr-Top" case lost her suit because the drugstore claimed the top might have been damaged on the way home by other items in her mother's tote bag!

The ultimate villain is the competitive system under which the toy industry operates. Most toy makers thrive only by producing items which are new, widely advertised and short-lived. Accordingly, if Swartz's message comes to their attention, their response is likely to be a groan. And in a way he *has* been one-sided. What would it cost to produce safe, durable toys? Creative Playthings seems to be able to do it profitably. But how would tougher regulations affect prices, profits, the sale of marginal toys, and the livelihood of marginal operators? Swartz does not say; he seems unconcerned about the economic ramifications of his argument, and his toy makers remain somewhat shadowy figures.

Obviously we need much tougher government safety standards, and the author makes a strong plea for the proposed Consumer Product Safety Act, still before a Congressional committee. This would set standards, require pre-market testing, forbid the sale of dangerous toys, and work with an independent consumer safety advocate, who would represent, and sue on behalf of, the public. Swartz also urges parents to demand better state laws, and better control of toy manufacturers' advertising. He asks the courts to adopt broader, more humane criteria for what constitutes a dangerous toy.

Meanwhile he urges us all to apply the ancient rule, *caveat emptor*. Swartz apparently has little faith in existing consumer organizations, for he doesn't mention such groups as the Consumer Federation of America, Action for Children's Television, and women's peace groups, all of which are working for safer toys and better advertising. Instead he stresses our individual responsibility for our children's safety.

Probably the most valuable part of his book is a detailed 65-page catalogue listing twenty-three types of toys, with specific advice on what to avoid, and some good general rules on toy buying.

However, not all of his recommendations are practical. How many of us can check the flammability of fabrics by asking the store to burn a sample? How many will have the time, patience, or even the opportunity, to work over a toy before buying it? We should get smart and get organized, but we probably won't. So we ask for better government regulation, only to be stalemated by an industry which is smarter and better organized than we are. That is really the consumers' dilemma. Swartz's book cannot do much to resolve it. □

Lessons from General Giap

THE MILITARY ART OF PEOPLE'S WAR: Selected Writings of General Vo Nguyen Giap. *Edited by Russell Stetler. Monthly Review Press. 332 pp. $8.50.*

LEONARD P. LIGGIO
Mr. Liggio teaches history at New York's City College.

Gen. Vo Nguyen Giap's reputation was established in 1954 with the victory of the Vietminh over the French at Dienbienphu. The significance of that event for contemporary Vietnamese history is suggested by the title of the final article in this selection, "Their Dien Bien Phu Will Come." It is an interview given by Giap two years ago, in which he discusses the current U.S. intervention. Asked whether the United States had lost the war, Giap answered: "They've recognized that themselves. To prove their military defeat, I'll go back to their political defeat, which is the basis of the whole thing." Giap's analysis was that military victory over the United States, as over the French, would be based not on superiority in men and matériel but superiority in political action and organization, the basis of the strategy of people's war. Throughout his writings Giap describes military operations together with the political context which gives them meaning.

Giap has written several detailed analyses of the Vietminh's military campaigns against the French. However, he does not discuss some controversial aspects of those campaigns—for example, the implications for those Vietminh leaders who sought to avoid conflict through reliance on the good faith of the French in the crucial negotiations of 1946. Giap himself, as Minister of the Interior after August 1945, participated in conferences such as that at Dalat. He later saw the negotiations as part of France's "delaying stratagem for preparing the war they intended to continue."

Once the Vietminh were in a position to move from defensive to offensive warfare, the United States stepped

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in to support the French with money and arms, and the proposal of "developing the puppet forces on a large scale to replace European and African troops" who were to be held in reserve for mobile offensives. This new theme (1950) of "Vietnamization" aimed both at adding more troops and at giving the Vietnamese people a stake in the outcome of the war. In 1951 the French sought to carry the war into the Vietminh strongholds in the highland regions but were defeated in numerous operations in which their mobility was reduced and Vietminh mobility was maximized. The French attempted to apply the strategy developed by the United States and employed in Korea—"the meat-grinder." The theory of destroying the enemy's manpower through firepower, especially from the air, has been the siren of defeat for both the French and the Americans. In this instance, while the French pursued that strategy in the highlands, Vietminh military and political units had freedom of movement in the populous lowlands that were spared major military action.

Following the 1953 truce in Korea, the United States increased its aid to the French to 80 per cent of the cost of the war in Vietnam. To destroy the Vietminh supply routes in Laos in preparation for a "final" campaign, the French established a huge base in the valley of Dienbienphu. Giap explains that his response was to reinforce the allied Pathet Lao forces with Vietminh troops. Beginning in December 1953, this combined force stormed the enemy positions in central Laos, gained control over Route 9 (along which the South Vietnamese army was to advance unsuccessfully in 1971), and liberated the strategic Bolovens Highland of southern Laos. In the article, "Dien Bien Phu," General Giap says that an important element in this victory was the countering of the French monopoly of air power. Tactically, French control of the air was nullified by antiaircraft fire. Strategically, air power was defeated by determination and organization.

> American interventionists sent more bombers and transport planes to support the Dien Bien Phu base. The enemy bombers were very active; they ceaselessly bombed our positions, dropped napalm bombs to burn down the vegetation on the heights surrounding Dien Bien Phu, and bombed points that they took for our artillery bases. Day and night they shelled our supply lines, dropped blockbusters on the roads, showered the roads with delayed-action and "butterfly" bombs, in an endeavor to cut our supply lines. These desperate efforts did not achieve the desired results. They could not check the flow of hundreds of thousands of voluntary workers, pack horses, and transport cars carrying food and ammunition to the front.

Very little has changed over two decades.

Giap insists that "stress should be laid on the considerable contribution made by the land-reform policy to the victories of the winter-spring campaign, particularly on the Dien Bien Phu battlefield." Repeatedly, the central thread in Giap's explanation of people's war is the political framework; military operations are conducted on the basis of political decisions. In the "Origins of the People's Army" he attributes early military success to Ho Chi Minh's insistence on rejecting sectarian politics and organizing a broad national front. Thus, the Vietminh worked to win the support of the villages. They were asked to settle land disputes, and register property and marriages, and when the district governors set up militia posts in each village against them, these too were turned into centers of revolutionary activity. According to General Giap, this dual power was created because "we firmly upheld local people's power, overthrew straw men, eliminated traitors."

But this success in the villages was rooted in a fundamental political issue, the land problem. People's war "is aimed at overthrowing imperialism and feudalism, reconquering independence for the nation and giving land back to the tillers." The restoration of land to the peasants involved a struggle not only against the feudal system but also against imperialism—which ruled through the feudal landholders and reinforced their mastery over the peasantry. It appears that Giap's proposals concerning the anti-feudal struggle were not always accepted. He suggests that a more sectarian line tended to predominate, a line not committed to Giap's revolutionary watchword—"land to the tillers"—but to collectivization instead. The ultimate result of that line threatened the very existence of the Democratic Republic of Vietnam following the Geneva Conference of 1954. Giap played a crucial role in rectifying the collectivism which had been imposed by Truong Chinh, who was removed as Secretary General of the Communist Party in late 1956. Eventually, the land question was resolved by the allocation of holdings to those who worked them.

General Giap's analysis of the situation in South Vietnam is also cast essentially in terms of the vital land question. "[The] revolutionary upsurge is in essence an insurrectionary movement of the mass of peasants, in which they carry out successive uprisings, to take power at the base and regain the right to land ownership." Under Diem, two-thirds of the land which had been gained by the peasants in South Vietnam during the war against the French was restored to the landlords. Heavy taxation, military and labor conscription and judicial terror sustained the landlords' mastery. Although the subject has been much discussed by American experts, General Giap's analysis of the agrarian revolution in the south is a good deal more specific and concrete.

The concluding selections concerning the American escalation of the conflict in Vietnam are invaluable for understanding the current situation. Given the success of the guerrilla struggle, it is important that we have as much information as possible about its military and especially its political foundations; Giap's writings are the best available introduction to that subject. Russell Stetler's introduction to this collection is a masterful contribution in its own right to Giap's thought and to the study of the Vietnamese revolution in general. □

FILMS

ROBERT HATCH

Yves Boisset's *The Cop* comes to us with the publicity advantage of having been suppressed by the French Government for six months and then, it is said, released only in a cut version (America is provided with the complete footage). And indeed the most important thing about the picture may be that it aroused the authorities in the homeland of *liberté* to such severe action. We worry a good deal, and properly, about the erosion of freedom in our own country, but as of now the American Government would not attempt to put the lid on a politically inopportune piece of fiction. Pressure, I don't doubt, would be applied (after all, even the Italian-American Civil Rights League has had its way with *The Godfather*), but the First Amendment, however undermined, has not yet toppled.

One can see readily enough what bothered the French officials, who too frequently of late have felt the social ground moving beneath their feet. *The Cop* says not only that in France the police administration is subservient to criminals of wealth and political power, but that conscientious officers can bring evildoers to justice only by putting aside the entire judicial process and becoming free-lance

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slaughterers. If it were true, this would bespeak a complete breakdown of civil administration, a state of chaos. And no doubt there are those in France who would take occasion to say that the film is true enough. Certainly there are many here who would say so of our constabularies.

Nevertheless, I think the French panicked. I know nothing of the picture's background, but I recognize its genre—it is the tough school of cops and robbers (the Hammett-Cain school) in which law is jettisoned in the pursuit of rough justice and a bittersweet irony qualifies the denouement. I cannot swear that the events of *The Cop* do not have their prototypes in fact, but I know they have an almost embarrassing wealth of prototypes in fiction.

The Cop is a melodrama—a particularly rancid one—with blood spurting from under fists and out of shattered skulls in a generous proliferation of scenes. I note with some apprehension that, except for a lucky shot during a chase, the victims do not die of a single bullet. The gun fires again (often repeatedly) while the victim gazes at his executioner with a stare of incredulity that grows more distorted as each slug hits home. This might suggest that the French—police and mobsters alike—are either sadists or shocking marksmen at close range, but then I recall the poignancy with which Peter Lorre used to die under fire and am reassured that the redundancy of bullets is not a matter of national character but of international cinema.

If I were to analyze the plot and circumstances of this tale of good hoodlums and bad, of idealistic cops and venal, it would crumble into a heap of sentimental clichés designed to grab you. The leading nemesis on the outlaw side (John Garko) loves horses and owns what appears to be a Montana ranch on the outskirts of Paris; a recalcitrant witness' little boy stares open-eyed as an inspector beats his father's face to pulp with tight-gloved fists; a hood named Beausourire (he has a smile like that of Yogi Berra; no offense intended) wrecks a drinking club and beats a woman unconscious, while remarking amiably that this is the regrettable sort of thing that might occur if some rough fellows happened to drop by; the noblest cop of them all, he of the gloved fists, replies to an accusing gunman that a dead policeman was also a man with wife and children. And so on. I am persuaded that a good many afternoons of M. Boisset's youth were spent in neighborhood cinemas.

But the fuse of the plot is long and twisted; to go over it inch by inch would scarcely be worth the effort—it all comes down to kill and be killed and let the women weep where they will. And analysis would be unjust, for the film at the moment you see it is much better than that; it is a first-rate example of its type. The schemes are ingenious, the performers are vivid, agile and instantly evocative of the roles they are to play (type casting is also a kind of art). One of them—Michel Bouquet (seen here earlier in *The Bride Wore Black* and *La Femme Infidèle*)—is much better than that. As the pure and implacable cop, out to avenge his friend and force justice down the throat of corruption, he wears an air of professorial dispassion that masks lethal rage. He beats and torments and kills with scarcely a twitch of his lips; he never raises his voice or loosens his tie. He hates evil and himself as part of it, and in the end he is probably mad and certainly frightening. The part may not be as demanding as Oedipus or Lear, but it is not done easily. The great dramatic inventions are unique, but this quiet man has walked the stage a thousand times, and to make him come alive once more is a real feat. I don't expect to remember *The Cop* very long, but Bouquet's cop will stick with me a while.

And did the French Government really think this workmanlike pastime—riding to be sure, and as so many of them do, piggyback on a contemporary mood—would set the students to heaving cobblestones again? This is the generation raised on Belmondo, and Belmondo's hero is Bogart. Instead of trying to suppress films, and thus outraging the citizenry, the French authorities ought to see more of them. □

NEWS

This howling that comes at night from the marshes
Is more than the rubbing of branches in deep space,
And the surge of the dark sea-bed is telling us something
besides yesterday's score:

Grass, trees, and running water are not only conspiring
against the dreams that come at dawn;
They and the crouching wind have not addressed the ocean
just to make one more dawn cloudy;
All of this tries to speak to what is muddy and dense
in the minds of the dreaming ones:

Those who lie near us propped on one arm feel the fever
of the night in their tossing
and want to sleep longer.

William Lane

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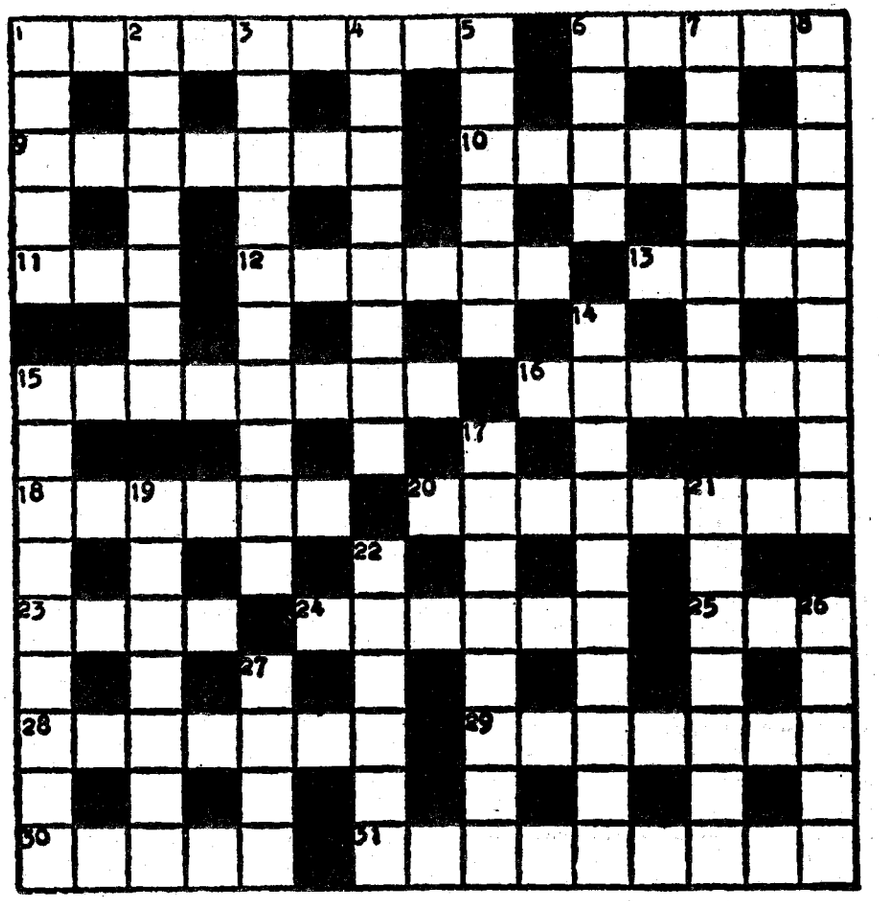
Crossword Puzzle No. 1398

FRANK W. LEWIS



ACROSS

1 It might be the latest word, since molds go in a pattern. (9)
6 and 21 down. You might buy it cheaply enough as paper, but it may be more expensive as a book. (5,7)
9 Delft painter. (7)
10 If 9 were more dotty, he might have done this. (7)
11 and 13 Butter portion? It might be just a mound. (7)
12 Rush owns a number. (6)
15 The sort of scene Pan made in punishments for sins. (8)
20 Are such snakes bound to make you nervous? (8)
23, 24, 1 down, 16 and 18 across Proving a person's hoggish environment won't ever cause one putting two and two together to make a premature statement. (3,7,5, 5,1,6)
25 This little devil used to be associated with Rex. (3)
28 A Latin way to the right sign, though he has his ups and downs. (7)
29 Just putting up with living? (7)
30 Does one encourage such as a tent caterpillar? (5)
31 Obvious people are certainly not fundamental! (9)

DOWN

2 However, he's not always in a row with others. (7)
3 Continually giving out a slap this way? (4-6)
4 A logical place to look for such as Moses, with the sort of ruin prior to the girl's making influxes. (8)
5 An old-fashioned flirt might still be useful in the kitchen. (6)
6 Do they wrap things in it to completely frustrate one from opening such? (4)
7 Substitute. (7)
8 The salientian type that stick to the trunk? (4,5)
14 Sissy garment? (10)
15 Country music? (9)
17 One might not expect to find the pie at all this way, but you could excuse things so. (8)
19 Get me in the assembly, possibly. (7)
22 Dam on a Spanish river, dividing the city and its environs. (6)
26 They might engage in name-calling. (5)
27 One might take the lead in getting up deserts. (4)

SOLUTION TO PUZZLE NO. 1397

ACROSS: 1 Bedevil; 5 Petsamo; 9 Ocean; 10, 12, 15 across and 2 Midsummer-Night's Dream; 11 Exile; 16 Revered; 17 and 22 across Main tops; 21 Advised; 23 Skua; 25 Flattop; 29 Nimrod; 33 Uriah; 34 Eva; 35 Thumb; 36 Sheered; 37 Holiday. DOWN: 1 and 19 Blossom Time; 3 Veneer; 4 Limn; 6 The Cid; 7 Amish; 8 Oversee; 13 Readily; 14 Depicts; 15 and 27 Never on Sunday; 18 and 32 Impeach; 20 and 5 down Ink pads; 22 Toss-ups; 24 Audibly; 25 and 19 Father Time; 26 Pistol; 28 Noise; 30 and 31 Roundhead.

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